

REPORT COMMISSIONED BY

THE BISHOPS OF ARMIDALE AND PARRAMATTA

INTO PROCESSES RELATED TO THE MANAGEMENT OF

“F”

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The names of some of the persons referred to in the Report of the Honourable Antony Whitlam QC have been redacted at the request of the NSW Police Service. The redacted names appear in the Report in square brackets [] on the first occasion the redacted name is used.

Introduction

1. The subject of this report is a man required by a Court Order to be identified only by the surname "F". He was born on 4 July 1953 in Armidale, the seventh and youngest child in a Catholic family who belonged to the cathedral parish in that city. "F" went to local Catholic schools and, after a brief stint at the University of New England, to the seminaries at Springwood and Manly. At the last of those institutions he was rusticated for a year. "F" was ordained as a deacon on 28 November 1980 and as a priest on 28 September 1981.
2. At that time the Bishop of Armidale was Henry Joseph Kennedy. (This bishop should not be confused with the present Bishop of Armidale, Bishop Michael Kennedy, who has had nothing whatsoever to do with "F" beyond jointly commissioning this report.) The diocesan records show that the decision of Bishop HJ Kennedy, to ordain "F" was made against the preponderance of advice from the authorities at Manly and from the clergy in the diocese. The widely held views of many about defects in "F"'s character and personality were supplemented in his year as a deacon by observations of a worrying lack of piety. Bishop HJ Kennedy appears to have had an unbending and inexplicable determination to make "F" a priest.
3. "F" was appointed assistant priest in the parish of Moree with effect from 11 November 1981. The parish priest was Mgr Frank Ryan, who was also the vicar-general of the diocese. "F"'s appointment at Moree was abruptly terminated in 1984, probably in April. He then went on what was euphemistically described as "sick leave" until he was appointed as assistant priest in the parish of Tamworth East at the end of July 1984.
4. In August 1987 "F" was arrested and charged with serious sexual offences against a young boy, Damien Jurd. "F" was immediately stood down from all parish duties. On 18 February 1988 he was discharged of those offences after a committal hearing. "F" then resumed limited liturgical duties at Tamworth East until after Easter that year, when he was relieved of active ministry in the Catholic Church. "F" was never appointed again to a pastoral position in the diocese of Armidale.

5. However, "F" went "on loan" to the diocese of Parramatta where, in November 1989, he was appointed assistant pastor in the parish of Kenthurst. He stayed there until the end of October 1990. In November 1990 "F" was assigned by the Bishop of Parramatta, Bede Heather, to help out in the parish of Merrylands, where he was later appointed assistant pastor with effect from 1 January 1991. The parish priest at Merrylands at the time was Fr Rod Bray.
6. On 30 June 1992 Bishop Heather terminated "F"'s appointment at Merrylands. The next day, on 1 July 1992, the new Bishop of Armidale, Kevin Manning, withdrew his faculties. "F" was never afterwards permitted to exercise any public ministry anywhere.
7. On 23 July 2012 I was asked to inquire into the management of "F" by the dioceses of Armidale and Parramatta. My terms of reference are set out in the appendix to this report. For this purpose the diocesan authorities made available their records relating to "F". I have also had the opportunity to interview members of the clergy who I thought may be able to assist with my inquiry. A schedule of those interviews is included in the appendix. Unfortunately Bishop HJ Kennedy, Mgr Ryan and Fr Bray are dead. Documents have also been provided to me by the Archdiocese of Sydney, by Catholic Church Insurances Ltd ("CCI"), and by a solicitor who acted for a young man "F" sexually assaulted. I have attempted to distil all this material into the chronicle that follows where I will flesh out the basic outline given above of "F"'s career as a priest.

Removal from Moree to Tamworth

8. The circumstances surrounding the termination of "F"'s appointment at Moree do not appear from the contemporaneous records of the diocese. These are two letters from "F" to Bishop HJ Kennedy dated 31 May 1984 and 29 June 1984 in which "F" refers to being on sick leave and being treated by a psychologist, Gary Boyle. In the first of those letters "F" also, quite obliquely, expresses regret for "distress caused to those who have been hurt or inconvenienced". Each of the letters bears an annotation by the bishop that he has "acknowledged [it] personally", and on the second letter

the bishop has noted: "Had an interview 5/7/84." However, there is no file note of any discussion. In a subsequent letter to the bishop dated 26 July 1984, "F" mentions a conversation with the bishop "at the Inverell Presbytery on 27th April about my car allowance during my sick leave". So it would appear that "F" had left Moree before the end of April 1984. There is nothing in the diocesan records from the parish priest of Moree, Mgr Ryan, about the reasons for "F"'s departure.

9. Many years later each of Bishop HJ Kennedy and Mgr Ryan was interviewed by an insurance investigator, who had been retained by the defendants' solicitors in an action brought by Damien Jurd. The investigator reported to the solicitors that Bishop HJ Kennedy did not have a particularly good memory of how he had first become aware of allegations against "F" or how "F" had been referred to the psychologist, Gary Boyle.
10. Nevertheless, the investigator obtained the following statement dated 19 December 1996 from Bishop HJ Kennedy:

"I am 81 years old and reside at Nazareth House, Tamworth.

I was Bishop of Armidale from 3/2/1972 until 11/7/1991.

In respect to "F", I cannot accurately recall how I first became aware of the allegations which concerned his behaviour in the Parish of Moree, where he was placed from 1981 until March 1984.

Once the strength of the allegations became known, I directed "F" to attend clinical psychologist, Gary Boyle, in Sydney. At that time, Gary Boyle was doing psychological assessments for the seminaries, and as he was engaged in this type of work, I thought he would be appropriate.

I cannot recall whether I made the arrangements for him to see Boyle or whether I told "F" to contact Boyle himself. I do remember that I had great difficulty in getting any sort of written report from Boyle. "F" would report to me that he was doing well, and I recall asking him to have Boyle to supply me with a report, but other than the report dated 30/7/88, I received no other report.

Once "F" was transferred back to Tamworth in July 1984, his activities were monitored by the Parish Priest, Fr. Gerard Hanna, and naturally I kept an eye on him whenever I visited Tamworth."

11. On 10 November 1997 the investigator wrote to the solicitors informing them of a telephone discussion with Mgr Ryan in the following terms:

"Mons. Ryan advised that "F" was taken out of the Moree Parish due to complaints, and what he termed 'school yard rumours' about "F" providing sex lessons for Alter [sic] Boys.

He went on to advise that the sister of one of the Alter [sic] Boys concerned learned of the 'lessons' and advised her parents, who then contacted Mons. Ryan. He claimed he advised the then Bishop, Henry Kennedy, and that "F" was taken out of the Parish, counselled, and then sent to Gary Boyle for evaluation and treatment.

Interestingly, he advised that Damien Jurd was not one of the Alter [sic] Boys concerned, and that no complaint had ever been received from Damien Jurd or his parents."

12. Richard Gleeson was also an assistant priest at Moree. He had succeeded Bernard Flood in that role at the beginning of 1983. Fr Gleeson recalls being called into the parlour at the presbytery by Mgr Ryan who told him words to the effect: "We've got a problem with "F". He's been mucking around with kids." Around the same time "F" said to Fr Gleeson: "I've done something stupid", but "F" refused to tell him what he had done.
13. Fr Flood was administrator of the parish of Bingara when he learned that "F" had been removed from Moree following allegations of interference with boys. Mgr Ryan did not give such information to Fr Flood, who told me: "It just becomes news." Fr Flood did not know how the allegations reached Mgr Ryan, but he said that "there was quick action in getting "F" off the local scene".
14. Gerard Hanna (who is mentioned in Bishop HJ Kennedy's statement) had been appointed administrator of the parish of Tamworth East in mid-1983. When he was asked to take "F" on in his parish, "F"'s situation was discussed at a meeting of consultors. There were rumours about "F"'s conduct. However, the consultors

were simply told that Mgr Ryan felt "F" had made a mess of things and needed to go from Moree. No details of the "mess" were given by Bishop HJ Kennedy or Mgr Ryan. Fr Hanna stayed behind after the meeting expecting to be told the reason why "F" was being sent to Tamworth. Bishop HJ Kennedy told him: "It wasn't much - the usual thing. He made a mess of things and needs to start again." In particular, nothing was said at the meeting about "F" seeing a psychologist, certainly not Gary Boyle whom Fr Hanna knew.

15. There are two letters in the diocesan records protesting to Bishop HJ Kennedy about "F"'s proposed appointment to Tamworth. One was from Harry O'Halloran, a prominent Catholic layman and solicitor. He pointed out the close community ties between Tamworth and Moree and said that "F"'s recent conduct in Moree was known to parishioners in Tamworth East. The bishop never discussed the concerns expressed by Mr O'Halloran with Fr Hanna. The other letter was from Fr Flood expressing his serious disquiet about the suitability of the presbytery environment at Tamworth East and his concern that "the earlier incidents are likely to re-occur". Fr Flood did not receive any acknowledgment of his letter from the bishop.
16. After "F" had left Moree, Fr Gleeson was approached by [Bill Redman], a parishioner whose parents he had buried. Bill Redman told Fr Gleeson that "F" had touched his son inappropriately. At some point Fr Gleeson did ask Mgr Ryan what were the names of the boys with whom "F" was alleged to have interfered. Mgr Ryan gave him three or four names. Fr Gleeson can recall the family names - Jurd, [Field] and [West]. Within a year after "F" had been moved from Moree, Fr Flood recalls discussing the counselling of families with Fr Gleeson. He understood that Bill Redman had spoken to Fr Gleeson and declined counselling for his son. Fr Flood met [Kevin Field] and his mother under the assumption that such a meeting had the approval of Mgr Ryan (although Mgr Ryan never said anything to Fr Flood about the circumstances of "F"'s departure). Fr Flood said that Kevin Field did not want to get "F" into trouble, but he emphasised for the benefit of the boy's mother that what "F" had done was "profoundly wrong" and a crime. This was the only family in Moree to whom Fr Flood spoke. Fr Flood was under the impression that the family of [David West] had declined counselling for their son too. However, Fr Gleeson

said that he had assumed [Peg West] would have spoken to Mgr Ryan whom she knew pretty well. Fr Gleeson found the situation awkward because he was bumping into Peg West all the time, and once in church Fr Gleeson said to her: "I don't know what to say."

17. In 2005 Mrs Peg West made an affidavit in civil proceedings brought by another boy "F" sexually assaulted. After first deposing that she worked at the local school in Moree and that her son had been training as an altar boy with "F", Mrs West stated:

The following items numbers 4 to 18 have been redacted at the request of the NSW Police.

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18. I have not spoken to Mrs West. She is clearly mistaken about the years 1985 and 1986. The year referred to in paragraph 5 of her affidavit should be 1984. However, subject to that correction, there is no reason whatsoever, based on the material I have seen, not to accept Mrs West's account of events. Indeed, Bishop Hanna confirms that when he became parish priest at Moree in 1996 Mrs West told him that she had spoken to Mgr Ryan. This was all news to Fr Hanna (as he then was). Mrs West's conversation with Mgr Ryan was not mentioned at the consultants' meeting in 1984 when "F"'s transfer was discussed.

Criminal Charges

19. In Tamworth Fr Hanna consciously kept "F" away from schools and youth work. He has no recollection of "F" travelling to Sydney to see a psychologist whilst he was in Tamworth. It appears from correspondence between Bishop HJ Kennedy and "F" in December 1984 that the diocese would not pay for "F" to travel to Sydney to see Gary Boyle. If "F" did see Mr Boyle, he must have taken the opportunity presented by Fr Hanna having agreed to his absence for some other purpose, such as a friend's ordination in Sydney.
20. After his posting in Bingara, Fr Flood moved to reside at the presbytery in the parish of Tamworth West. He was telephoned there one weekend by Bill Redman. Bill Redman told Fr Flood that on the following Monday the boy Damien Jurd was scheduled to be in court and that "all those known to have been involved in the "F" case were being approached, asking [sic] for a joint complaint of sexual abuse". Bill Redman wanted Bishop HJ Kennedy to be informed. Fr Flood said that he telephoned the bishop to pass on that information as requested and that Bishop HJ Kennedy dressed him down and told him to mind his own business. Fr Flood also telephoned "F" and told him what was going to happen and that he would need to be prepared.

21. Fr Flood was overseas when "F" was arrested on 12 August 1987. Fr Hanna returned from a hospital visit to be told by the housekeeper that "F" had been taken to the police station. He notified Bishop HJ Kennedy that "F" had been arrested, and the bishop asked him to take carriage of the process. Fr Hanna contacted Harry O'Halloran. ("F" did not want to be photographed in a clerical shirt. So Fr Hanna travelled one block back to the presbytery to get another shirt.) Mr O'Halloran came to the police station and took charge. Fr Hanna stayed in the background. He took "F" back to the presbytery and immediately stood him down from all public duties.
22. Fr Hanna knew the charges facing "F" related to sexual abuse of a boy from Moree. He took no decisions whatsoever in relation to the process except to follow the advice of Mr O'Halloran. Fr Hanna's impression was that Mr O'Halloran made the decisions, and he did not know to what extent "F" instructed him. Fr Hanna did say the parish would cover "F"'s costs, including fees to engage Chester Porter QC. Fr Hanna spoke to Bishop HJ Kennedy about reimbursing Mr Porter's fees. The bishop also suggested that the parish undertake to support "F" financially.
23. Arrangements were made for "F" to leave Tamworth, but prior to the committal he came back to Tamworth off and on and stayed overnight at the presbytery. Fr Hanna told "F" he would prefer him not to do so.
24. One particular item in "F"'s diocesan records during this period invites comment. It is a handwritten letter dated 5 January 1988 from "F", written from the presbytery in Tamworth East to a priest in Queensland. There is no explanation how a copy of this letter came to attention, but the fact that it has been placed with copies of the bishop's correspondence with "F" makes it overwhelmingly likely that it must have been seen around about that time by Bishop HJ Kennedy himself. It is not necessary to canvass the contents of the letter except to observe that "F" makes the most unflattering and cruel comments about both the bishop and Fr Hanna. Moreover, "F" boasts that, in coming back to Tamworth, he is consciously flouting Fr Hanna's wishes. When every allowance is made for the pressure that "F" was under in facing his forthcoming committal hearing, it seems extraordinary that he was

evidently not rebuked in any way for the kind of sentiments expressed.

25. The committal hearing was held on 18 February 1988 in Narrabri. Harry O'Halloran told Fr Hanna not to go. The local parish priest, Fr Harry Leis, sat in court and reported to Fr Hanna afterwards that the prosecution was a disgrace and that Mr Porter made "mincemeat of the boy". Mr O'Halloran indicated only that there was insufficient evidence to warrant a trial.
26. The vicar-general, Mgr Ryan, evidently gave directions that "F" was to undertake weekend masses at Tamworth in order that he "be seen as vindicated". "F" was, however, keen to take the rest of the year off to pursue studies at the University of New England and proposed that for this purpose he reside at the Bishop's House in Armidale. "F"'s proposal was accepted, and it was agreed that he would step down after Easter.
27. On 28 April 1988 the Solicitor for Public Prosecutions notified "F" that the Director of Public Prosecutions was considering whether or not the prosecution should be continued. Fr Hanna knew that there had been pressure from a number of people in Tamworth for such a course of action.
28. In June 1988, notwithstanding that he had no pastoral duties, "F" applied to the bishop and obtained approval for a new car loan.
29. On 1 August 1988 the Director of Public Prosecutions advised that an *ex officio* indictment would not be filed against "F". Straightaway Fr Hanna wrote (by hand to preserve confidentiality) to Bishop HJ Kennedy saying how it was difficult to see that an appointment was possible for "F" in the diocese. Fr Hanna did so because, in his view, Bishop HJ Kennedy was not so convinced.
30. Around this time Bishop HJ Kennedy received the following letter dated 30 July 1988 from Gary Boyle:

"Further to my phone call of July 1984 "F" has requested that I write to you concerning my opinion of his problem and the prognosis following my interviews with him over these years.

When “F” first presented he was highly agitated and clinically depressed following his removal from his parish. After considerable discussions and assessment I was, and still am, of the opinion that “F” did not present as a man with true paedaphelia [sic]. Although the presenting behaviour was consistent with paedaphelia [sic] the issue for “F” was more of a delayed psychosexual development. His psychosexual development was equivalent to the age of the children with whom he became attached. The actual behaviour was similar to the sexual curiosity of children that age.

Through counselling “F” made rapid progress in his psychosexual development and within a three month period had developed to age appropriate and mature sexual orientation. “F” rapidly moved beyond a stage of curiosity with children to establishing a mature heterosexual orientation. In my opinion children no longer present as true sexual objects.

In my opinion “F”'s problems were that of delayed maturation which sadly had to cause difficulties for himself and others before the issues were addressed and more appropriate maturity obtained. In my opinion, “F” does not have a paedaphelia [sic] problem and no longer presents any problems for children or yourself.

“F” has reported to me that you and your consultors are concerned about his level of aggressiveness and determination to have his own way. Central to “F”'s difficulties is a basic lack of assertiveness which commonly results in his feeling abused. After remaining passive for some time the bottling of negative feelings and hurts result in aggressive type outbursts and forceful sometimes apparently offensive, expressions of his desires. “F” is aware of these issues and is honestly endeavouring to rectify his assertiveness problem. No doubt “F” would be prepared to discuss with you the techniques he is learning to apply if you so wish. I believe “F” would be less apparently aggressive if he felt he was more trusted, affirmed and positively supported in the Diocese. I have been impressed with “F”'s openness and honesty. He has always been willing to face issues directly and is very open to growth and change. In a supportive environment I believe he will continue to do well for himself and the Church.

It is my hope that “F” be given every assistance in putting this difficult period behind him and is allowed to return to full ministry in the Church. I am concerned with the level of depression still evident in “F” and believe that he needs to be trusted, supported and returned to active ministry so as to recover from this traumatic period. From discussions with “F” his placement at Tamworth rather than reducing trauma appears to have increased his distress and depression due to the lack of trust and support he received. I would hope that “F” be given every opportunity to move beyond the cloud that still appears to hang over his head and receive the care and support he justly deserves after all this time."

31. Bishop HJ Kennedy acknowledged this letter and expressed his “hope” that “F” would consult Mr Boyle regularly and be guided by him. Mr Boyle's opinion was never discussed with Fr Hanna.

Kenthurst

32. On New Year's Day 1989 "F" wrote to Bishop HJ Kennedy seeking to discuss his "return to active ministry". The diocesan files contain no record of any such discussion.
33. Bede Heather was the bishop of the new diocese of Parramatta. He recalls speaking to Bishop HJ Kennedy about "F" at the bishops' conference at Kensington after Easter 1989. Bishop HJ Kennedy mentioned to Bishop Heather the difficulty of an appointment to a parish in his diocese in the light of publicity surrounding criminal charges, involving allegations of a sexual nature, of which "F" had been "acquitted". Bishop HJ Kennedy did not say anything about "F" being removed from the parish in Moree years before those particular allegations were made.
34. On 29 June 1989 "F" notified Bishop HJ Kennedy's secretary that he was now living at a presbytery in Carlingford. Over three months later, on 3 October 1989, "F" wrote from that address to Bishop Heather seeking to discuss "the possibility of going on loan for your diocese". Bishop Heather spoke to Bishop HJ Kennedy on 9 October 1989. His file note records that he was told "F" had made a great recovery and that Bishop HJ Kennedy would like to have him back in Armidale in about 12 months. Bishop Heather was also told that Gary Boyle had provided advice that "F" "was now doing okay".
35. "F" came to see Bishop Heather in the diocesan offices at Parramatta. Bishop Heather also made a note of the contact details for Mr Boyle whom he knew well. Bishop Heather has no recollection of speaking to Mr Boyle, but he felt confident that he would have done so. Bishop Heather made a file note that "F" "would like a parish placement for 12 months" and that the "allegations concerned symptoms about other problems that were dealt with in meetings with Gary Boyle".
36. Bishop Heather asked Chris Dixon, the parish priest at Kenthurst, whether he would like an assistant priest. When it was mentioned that the possible appointee was from another diocese, Fr Dixon was alert enough to enquire whether there was

anything he should know about "F". Bishop Heather answered in the negative and told Fr Dixon that "F" had had "a bit of trouble" in Armidale and was just coming for respite for a year. Fr Dixon did not ask what kind of trouble, but he told me that it never occurred to him at the time that it might have involved sexual abuse.

37. On 10 November 1989 "F" was appointed assistant pastor at Kenthurst for 12 months. He and Fr Dixon did not get on. Fr Dixon said that he was uncomfortable in "F"'s presence and that "F" seemed to have difficulty with authority. Indeed, he assumed that this had been "F"'s problem in Armidale. "F" was not a popular person in the diocese of Parramatta. Whilst "F" was at Kenthurst, Fr Dixon heard stories about his having been involved in a court case. Bishop Heather agreed that by mid-1990 the purport of the allegations against "F" of sexual misconduct were abroad. The bishop volunteered that the clergy have a very efficient network for knowing when someone was under a cloud.
38. On 18 June 1990 "F" spoke to Bishop Heather and gave the bishop to understand that it had been mutually agreed with Fr Dixon that his appointment at Kenthurst would terminate at the end of the month. In fact, Fr Dixon has no recollection of such an arrangement. Fr Dixon could not wait to get rid of him. He found "F" an arrogant fellow.
39. Fr Dixon received only one complaint whilst "F" was at Kenthurst. A female teacher at the neighbouring primary school claimed that "F" had visited her classroom, whilst she was preparing the next day's lessons, lain down on some desks and made suggestive comments to her. Fr Dixon brought this matter to the attention of Bishop Heather. Parishioners also commented on "F" behaving like an adolescent in their swimming pools.
40. In any event, "F" apparently got an unpleasant shock when his car allowance stopped in June. On 22 August 1990 "F" wrote to Bishop Heather proposing that he continue at Kenthurst (where he had continued to live). Bishop Heather allowed "F" to stay on at Kenthurst for September and October. However, the bishop cannily confirmed in writing to "F" that his services were to be seen in the nature of supply

and did not involve a renewal of appointment to the parish of Kenthurst. Fr Dixon noted that "F" left at the end of October 1990 and no farewell was arranged.

A Vacancy in Armidale Diocese

41. In the meantime, there had been development in the diocese of Armidale. On 13 June 1990 "F" applied to Bishop HJ Kennedy to be appointed as parish priest or administrator of the parish of Boggabri. The vacancy had apparently been notified the day before. On 18 June 1990 "F" wrote again to Bishop HJ Kennedy to say that in his earlier letter of 13 June 1990 he had "omitted" to say that he had spoken to Bishop Heather and that, if he were the successful applicant, Bishop Heather "would be willing to cancel the present arrangements". It is most unlikely that he had such a conversation with Bishop Heather.
42. The diocesan files relating to "F" contain no correspondence from Bishop HJ Kennedy about "F"'s application for Boggabri. However, they do contain three contemporary documents that are relevant: a letter dated 22 August 1990 from Fr John Usher, Director of Centacare in the Archdiocese of Sydney to Fr Wayne Peters, a letter dated 16 September 1990 from Fr Gerard Hayes to Fr Peters, and a letter dated 23 October 1990 from Fr Peters to Bishop HJ Kennedy.
43. Fr Peters is a priest of Armidale. He was ordained in 1969 and, at the time of the above correspondence, had been engaged full-time on Tribunal business since 1979. Fr Peters and Fr Usher were friends. Fr Peters had served as the Armidale representative on interim provincial committees of the Church concerned with what are euphemistically called "special issues". These matters mainly involved child sex abuse, and Fr Usher was a leading light in setting up and designing the new consultative processes to deal with them. Fr Usher was also a well credentialled social worker.
44. First, I shall deal with the second of those letters. Its author, Fr Hayes, had just finished a stint as assistant priest at Moree. At the request of Fr Peters, he wrote to confirm information he had passed on orally some weeks previously. A teacher in Moree had told Fr Hayes of "F" calling upon a family of parishioners in Kenthurst in

April. "F" had sought to have the family's young sons who were under 12 years of age join him on a camping trip. The family was also concerned about the amount of attention "F" was paying to their 20-year old son who had moved out of home and into a flat.

45. The really important letter is that from Fr Usher. I shall set it out in full:

"Dear Wayne,

Further to our recent conversation in Sydney I wish to reiterate my views regarding the reappointment of a Priest to a pastoral post in the diocese of Armidale who has been before the courts in relation to child sexual assault. I am aware that the Priest in question was acquitted of the charges but it is vital that a Bishop make a personal assessment of the case irrespective of the outcome of any trial, before making such an appointment.

The Priest in question is known to me and I have interviewed him in relation to the alleged offences. His personal manner and his ongoing need to spent time with children is a matter of grave concern to me. During my interview with him I gained the impression that he was unable to understand the seriousness of the matters with which he had been charged and was arrogantly dismissing the whole affair as a figment of other people's imagination. The events, serious as they were alleged to be, did not seem to distress him greatly. His behaviour, therefore, indicated that his feelings were repressed and that he had developed certain defence mechanisms which enabled him to cope with such stressful events by denying that they had any basis of truth at all. Of course, denial is a trait of many child sexual assault offenders and it is not uncommon to witness complete disinterest in such people in relation to their behaviour. I am not suggesting that the Priest in question is guilty of such behaviour but his personality traits indicate some deep-seated disorder. During the single interview I had

with him I was in no position to make any comprehensive assessment nor would it would [sic] appropriate for me to do so.

I understand that he has had counselling from Mr Garry Boyle and that Mr Boyle has provided the bishop with some assessment of the man in question. I believe that it would be very appropriate, in view of the seriousness of the allegations and in view of the man's own personality, that a further assessment be sought. If Mr Boyle's opinions are confirmed then there would seem to be no good reason not to proceed with a pastoral appointment. If, on the other hand, there is some doubt about this Priest's ability to hold down such an appointment in an appropriate way, the bishop may have to consider some other intervention.

I trust that these comments are helpful and if you require any further observations from me do not hesitate to let me know."

46. The priest "in question" was, of course, "F". Fr Usher had not met "F" before the interview mentioned in his letter, and he is not certain how it was that he came to see "F". Mgr Peters recalls telling Fr Usher (as he then was) of what Fr Hayes had told him about the Kenthurst incident. However, if Fr Peters did pass on that information, it is not likely to have been prior to the interview mentioned. Fr Usher did know from Fr Peters at that time that Gary Boyle had reported that "F" was not a risk to children. Moreover, Fr Usher had been told of the criminal charges involving Damien Jurd but knew nothing of any incidents with other boys in Moree. He did not know that "F" was working in Sydney (as appears from his observations about a "pastoral appointment"). He assumed "F" was visiting Sydney to see Mr Boyle. There is no record of the date of the interview, but it was probably around 22 August 1990 (which was the date of the letter "F" wrote to Bishop Heather about staying on at Kenthurst). I have seen no directive from Bishop HJ Kennedy that "F" should attend on Fr Usher. However, I suspect that Bishop HJ Kennedy suggested to "F" that, if he ever hoped for an appointment in Armidale, it might be useful if he went to see Fr Usher. It is likely that the bishop would have spoken to "F" about his unsuccessful application for Boggabri. (Fr Hayes got that post and started there on 1 August 1990.)
47. What is certain is that Fr Peters made sure that Bishop HJ Kennedy saw the letters from Fr Usher and Fr Hayes. Fr Peters also chased up Fr Usher to get the name of a suitable person to make the "further assessment" of "F". Fr Usher recommended

Dr Alex Blaszczyński, a clinical psychologist in Sydney, who acted as a consultant to the "special issues" group. In the third of these key letters, on 23 October 1990, Fr Peters wrote to Bishop HJ Kennedy passing on all the relevant information about Dr Blaszczyński.

48. Bishop HJ Kennedy appears to have done nothing with any of this information. He certainly never mentioned it to Bishop Heather, who knew Fr Usher and knew of Dr Blaszczyński. Bishop Heather did not know that "F" had seen Fr Usher and did not know anything about "F" seeing Mr Boyle whilst serving in Parramatta diocese.

Merrylands

49. In October 1990 "F" wrote to Bishop Heather asking to stay on in Parramatta diocese. Bishop Heather asked "F" to assist in the parish of Merrylands from mid-November whilst another priest was on holidays.
50. It appears that Bishop Heather spoke to Bishop HJ Kennedy and that they arranged that "F"'s stay be extended for a further year. Bishop Heather then appointed "F" as assistant pastor at Merrylands with effect from 1 January 1991 until 30 November 1991. Rod Bray was the parish priest at Merrylands. However, as he had not been well, Bishop Heather arranged for another priest, Fr Zvonimir Gavranovic, to administer the parish for the first half of 1991.
51. Fr Gavranovic recalls that, only a few days after he arrived at Merrylands, Bishop Heather called at the presbytery and spoke to him and Fr Bray privately for about an hour. Bishop Heather told them that "F" was from Armidale, that he had been accused of "some misconduct", that there had been "no conviction" and that he was being given "a chance to work in our diocese". Bishop Heather said that "F" lacked confidence. Fr Gavranovic recalls that both he and Fr Bray interrupted to suggest "F" oozed confidence. Bishop Heather also said "F" had not been popular in the seminary, but the bishop emphasised that he wanted to know immediately if anything untoward happened. "F" was the specific topic of the

discussion. Oddly enough, Bishop Heather has no recollection of the meeting or such a discussion.

52. Unusually amongst the priests to whom I have spoken, Fr Gavranovic said that he got on well with "F" and enjoyed his company. "F" was not much engaged in pastoral work. Apart from church services, "F" was preoccupied with the biography of a former bishop of Armidale that he was working on. At Merrylands "F" did train the altar servers, mainly at lunchtime when they would come to the church from the school next door. Fr Gavranovic and Fr Bray did not ever discuss "F"'s behaviour in the light of what Bishop Heather told them. However, in hindsight Fr Gavranovic recalled only one occasion when he had regard to that discussion. After a nuptial mass one weekend "F" brought five or six boys who had acted as altar servers into the presbytery where they all sat around for quite a while laughing and talking whilst "F" plied the boys with soft drinks. Fr Gavranovic bluntly queried the wisdom of such behaviour with "F" but said no more about it. In the middle of the year Fr Gavranovic left Merrylands and went overseas on long service leave for a year in Germany and Croatia.

A New Bishop in Armidale

53. In July 1991 Kevin Manning took over as the new Bishop of Armidale. Bishop HJ Kennedy retired to live in Tamworth. "F"'s situation soon came to the attention of the new bishop.
54. Bishop Manning recalls the rumours about "F" connected with the magistrate's decision in Narrabri, the names of other young boys in Moree around the same time, and the general feeling that a grave injustice had been done. He did not speak about these matters to Bishop HJ Kennedy because he was "fairly sick". In order to try and find out what had happened in the case, Bishop Manning asked Fr Hanna to get in touch with Harry O'Halloran. In Mr O'Halloran's absence, his son (who was the other partner in the law firm) wrote to Fr Hanna on 25 July 1991, saying that all relevant court transcripts and documents relating to the case had been destroyed after the charges against "F" were dismissed.

55. In that same month "F" wrote to a priest in the cathedral parish of Armidale seeking to arrange a chapel where he could celebrate mass for 200 people expected to attend a school reunion on the long weekend in the following October. His request was referred to Bishop Manning who wrote to "F" on 30 July 1991:

"I understand that Bishop Heather has graciously accepted that you work in the Diocese of Parramatta until November when I will review your situation. Until I have spoken to you and discussed your situation I do not give you permission to celebrate on the occasion you indicated in your letter, or to publicly celebrate Mass, or perform other public liturgical functions in the Diocese of Armidale."

56. "F" did not directly acknowledge the injunction in that letter. However, prior to the reunion "F" wrote enquiring whether Bishop Manning would see him "about the matters you mentioned you wanted to discuss with me". Bishop Manning responded, pointing out that the "instruction given you in my letter of 30 July still stands" and questioning the prudence of "F" "taking a high profile" at the reunion. An appointment was fixed for "F" to see the bishop on 9 October 1991.

57. In the meantime, Bishop Manning spoke to Fr Flood and Fr Peters. Bishop Manning made extensive handwritten notes of his talk with Fr Flood. According to the notes, Fr Flood described "F" as profoundly manipulative and unable to accept responsibility and recounted "F"'s odd behaviour whilst they were both assistant priests at Moree, such as bouncing a 10 year old boy on his knee and playing one boy off against another; Fr Flood said that "F" had been sent away from Moree and told by Mgr Ryan and Bishop HJ Kennedy not to return; and Fr Flood also related being called in by Fr Gleeson to counsel parents (though not getting to everyone) and being rebuked by Bishop HJ Kennedy for passing on Mr Redman's warning about Damien Jurd's threatened allegations. Bishop Manning told me that at this time he was "desperate" to find some person who would make a specific allegation against "F", but that Fr Flood did not tell him of such a person.

58. Bishop Manning made a typewritten note of his "advice" from Fr Peters. It is obvious that Fr Peters brought to the bishop's attention the views of Fr Usher and the suggestion of Dr Blaszczyński as a suitable source of a second opinion. This note records Fr Peters telling the bishop, among other things, that there "are still children

around who were silenced at the time of the court case". Bishop Manning told me that he did not recollect anything more being said by Fr Peters on that topic, but he made it clear that he could never get any "solid" information. It was always "they say" type of thing, and there was a lot of speculation. Fr Peters was also the canon lawyer in the diocese. From time to time he was consulted by Bishop Manning about how "F" might be deprived of his clerical status. (It has to be borne in mind that under canon law at this time the laicization process had to be initiated by the priest himself. Bishop Manning was very conscious of the difficulties with that process.)

59. Bishop Manning met "F" in the chancery office in Armidale on 9 October 1991. The bishop prepared a summary of that meeting for his files. I shall set it out in full:

- "1. "F" was initially quite belligerent [sic] and demanded to know why I had refused him permission to celebrate a public Mass and denied that he had any idea why he was being kept out of the Diocese.
2. He denied that Bishop Kennedy had ever acquainted him with any accusation of wrong-doing or even spoken to him about it.
3. I detailed for him the following reasons:
 - a. There was the matter of incidents with boys in Moree.
 - b. The matter of the court case in Narrabri.
 - c. The silencing of witnesses in Moree by Rev. Monsignor Ryan.
 - d. The scandal emanating from both of those areas.
 - e. Widespread knowledge of both matters.
 - f. Potential damage to the Diocese and the priesthood.
 - g. The demand for distancing of "F" by parents of children involved.
 - h. The threat of physical violence to "F" by parents and others.
 - i. Widespread knowledge of the accusations.
 - j. The danger to children if a cure had not been effected.

4. I put to "F" the need to protect myself and the Diocese from future claims by indicating I had done something to offset the danger of future adverse actions on his part.
5. I advised him I required a further testimony from a psychiatrist to the effect that he was unlikely to offend again before I could ask another Bishop to take him on in his Diocese.
6. Initially he was prepared to accept this but later in the conversation he asked that such an action be postponed for twelve months as it was unsettling for him. On my insistence that it be immediate he agreed.
7. I was left with the feeling that he surrendered very easily to my requests and during the course of the conversation he continually changed the topics as though the whole issue was of little consequence."

60. Bishop Manning does not recollect asking Mgr Ryan about events involving "F". The bishop said that Mgr Ryan was "a long way out at Moree" although he came to Armidale for consultants' meetings, "was not a great communicator" and "played things very close to his chest". Bishop Manning told me that he could not recall whether the reference to "silencing of witnesses" was a conclusion he drew or something he was told. Dr Blaszczyński was the "psychiatrist" he had in mind.

61. "F" returned to Merrylands, and on 11 October 1991 he wrote to Bishop Heather:

"I recently met with the Bishop of Armidale, and I expressed my wish to continue the exercise of my ministry in the Diocese of Parramatta. Bishop Manning was agreeable to this, and indicated that he would make the necessary arrangements with you.

In order that everything can be done correctly, I hereby submit in writing my request to remain in your diocese for another two years."

The suggestion that Bishop Manning agreed to any such proposal was, of course, untrue.

62. On 16 October 1991 "F" fetched up at a funeral in Armidale, where he told Bishop Manning that Gary Boyle had advised him that it would be dangerous to have a written opinion from Dr Blaszczyński "if ever there was a court case". On 21

- October 1991 Bishop Manning wrote to "F" confirming that, before he could approach Bishop Heather or any other bishop about a placement in another diocese, "F" must obtain an opinion from Dr Blaszczyński. Bishop Manning suggested that "F" make an appointment with Dr Blaszczyński "as early as possible".
63. On 30 December 1991 "F" told Bishop Manning that he had seen Dr Blaszczyński "twice and needs to see him again". He also told Bishop Manning that he wanted to remain in Merrylands. Bishop Manning told "F" that he required a report from Dr Blaszczyński and that, only after he received such a report, would he contact Bishop Heather.
64. On 11 February 1992 "F" wrote to Bishop Heather expressing interest in the vacant parish of Dundas in the Parramatta diocese. Days later, on 21 February 1992, "F" called on Bishop Manning in his office in Armidale and informed him that Dr Blaszczyński wanted to see him "every month for a full year". On 27 February 1992 Bishop Heather wrote to "F", pointing out that, as he was a visitor in the diocese, he could not be considered for a vacant position. Bishop Heather concluded by raising the question whether it would be wise to bring him up to date "about where things are in your discussions with Bishop Manning".
65. "F" did not, of course, copy his correspondence with one bishop to the other. Nor did he keep Bishop Heather informed of his discussions with Bishop Manning. Bishop Manning was unaware of "F"'s machinations in Parramatta diocese, and Bishop Heather did not know whether "F" was seeing Mr Boyle or that "F" had been required to obtain a report from Dr Blaszczyński before Bishop Manning would consider extending "F"'s stay in his diocese.
66. On 1 April 1992 Bishop Manning spoke by telephone to Dr Blaszczyński who said that he would not give a favourable report on "F" or recommend an appointment at this time. The next day Bishop Manning wrote to "F" chasing up a report from Dr Blaszczyński.
67. On 15 April 1992 Bishop Manning had a further telephone conversation with Dr

Blaszczynski and made a file note of the following advice about "F":

"He needs to be kept away from children where he is at risk and the area of his work needs to be limited to adults. However, controlling him would be very difficult and he remains a potential risk. Pre-pubescent children are in danger where he is."

An Altar Boy at Merrylands

68. In July 1991 a boy called Daniel Powell moved to Merrylands with his mother and sister. Daniel was 12 years old and was enrolled at Parramatta Marist High School in Westmead. His sister was about three years older. The family had formerly been parishioners in Westmead, where the parish priest was John Boyle.
69. Fr Boyle has known Daniel's mother since the mid-1970s when he was working in the parish of Darlinghurst and she was a trainee nurse nearby at St Vincent's Hospital. (Daniel's mother calls herself Renee and that is how I will refer to her) Daniel's father was an alcoholic who committed suicide in 1989. Daniel had found the body hanging from a tree in the backyard when he returned from an outing with his mother and sister. Fr Boyle officiated at the funeral. After his father's death Daniel came to church regularly at Westmead where he was an altar server.
70. Daniel's mother and her children lived at Merrylands within walking distance of the church. She recalls that Fr Bray was not very well and concerned himself mainly with liturgy. (A history of the parish records Fr Bray being on "light duties" at this time.) Daniel became an altar boy at Merrylands. "F" would often bring Daniel home after evening services. Renee found "F" very arrogant and keen to flaunt his erudition. Her daughter never liked "F", but Renee observed nothing suspicious in "F"'s conduct. "F" would come to their home for a meal, coffee or a game of cards. Renee trusted "F".
71. In 1992 Daniel's relationship with his mother became quite adversarial. His behaviour at school resulted in his expulsion from Parramatta Marist High School. It transpired that Daniel was one of a group of boys who had been sexually assaulted by a lay teacher at the school on "canoe club" excursions. When Renee was informed of this teacher's activities by the police and she raised the allegations with Daniel, he denied that he had been involved. Renee confided in "F" about Daniel's expulsion and

the story of the boys' abuse, and "F" expressly assured her that Daniel would be safe with him.

72. In the meantime, Fr Boyle had become dean at the cathedral in Parramatta. Fr Boyle had met "F" at Kenthurst, although he cannot recall the circumstances. Fr Boyle had heard, probably "on the grapevine", of allegations that "F" had molested altar boys in Moree and got off in court on a "technicality". He was very concerned, therefore, to see "F" bring Daniel to an ordination at the cathedral on 29 March 1992.

73. What particularly concerned Fr Boyle was "F" travelling alone in a car with a young boy. Fr Boyle thought such conduct was imprudent and inappropriate, especially in the light of what he had heard about "F"'s history in Moree. Accordingly he reported what he saw to the vicar-general, Richard Cattell, and asked that the bishop be informed. A week later Fr Cattell said to Fr Boyle that the bishop had suggested Fr Boyle was mistaken about "F" being unaccompanied on the occasion in question. When Fr Boyle was persistent, Fr Cattell retorted: "The bishop said that you are to give "F" a fair go and it is none of your business anyway." Fr Boyle was left with the impression that this response had come from Bishop Heather. (When I spoke to Bishop Heather he had no recollection of Fr Cattell raising with him any such concerns expressed by Fr Boyle.)

74. Very soon after his second conversation with Fr Cattell, within a day or two, Fr Boyle arranged to see Renee at her home in Merrylands in order to warn her about "F". In a statement prepared for this inquiry, Fr Boyle described his exchange with Renee this way:

"54. I said to [Renee]: "I have got something to tell you, and I do not know how you are going to take this."

55. I then burst into tears.

56. It took me a minute to compose myself.

57. I then said to [Renee]: "I've got something to tell you. I don't know how you are going to take this. I saw Daniel come in the car with "F" the other day. I need to tell you that it is my understanding that "F" was accused of molesting altar boys at Moree, and he got off on a technicality. I am here to tell you that you need to watch the relationship that Daniel has with "F"."
58. [Renee] said to me: "I don't take offence at what you said. I am not offended. I am pleased you came here. That explains a number of things. "F" gave me his thesis to read. The thesis deals with historical cases of child molestation in the Armidale Diocese. He is defending the perpetrator. He told me that the perpetrator got a rough deal. I don't know what I am going to do about this situation because Daniel is already besotted with "F"."

(I understand that, in fact, "F"'s thesis did not concern cases of child molestation.) Fr Boyle told me that Renee made no allegations against "F", but that Renee did say that she was glad Fr Boyle had come to see her.

75. When I asked Renee about Daniel going to an ordination at the cathedral with "F", Renee said that at the time she knew about it "only vaguely", but she volunteered that she had trusted "F" and would have had no hesitation in letting Daniel go with him. Renee told me that she recalled Fr Boyle coming to see her. Renee did not recall the specific matters set out in paragraph 57 of Fr Boyle's statement, but she did remember a warning to the effect of that in the last sentence of paragraph 57. Renee understood that Fr Boyle was warning her to keep an eye on "F". Again, Renee did not recall giving the first part of the answer attributed to her in paragraph 58 (although she did recall reading "F"'s thesis), but she did recall the last sentence and the use of the expression "besotted". Renee was quite prepared to accept that it was possible that Fr Boyle did specifically mention the molesting of altar boys in Moree and that at the time she said something about "F"'s thesis.
76. Renee recalls having her conversation with "F" about the "canoe club" abuse before Fr Boyle came to see her. Renee had no concern about "F" at the time. She had received "F"'s assurance and was much more concerned about Daniel's behaviour and his denial of abuse by the school teacher. Renee recalls "F" leaving Merrylands soon after she graduated from university in May 1992.

"Special Issues" Resource Group

77. Brian Lucas is the general secretary of the Australian Catholic Bishops Conference. He was in the seminary with "F" and attended "F"'s ordination in Armidale. After assignments as assistant priest in the suburbs and the cathedral in the Archdiocese of Sydney, Fr Lucas had by 1990 landed in the chancery office. He was also a lawyer and, along with Fr Usher, had been one of the leading lights in developing for the Bishops Conference the protocols that have become settled under the rubric *Towards Healing*. The label "special issues" comes from the name of a committee originally set up by CCI. The protocols envisaged a resource group in each province, and by 1992 either Fr Lucas or Fr Usher was generally the person contacted by a bishop or leader of a religious order in NSW who wanted assistance in dealing with allegations of sexual abuse.
78. A handwritten file note of Bishop Manning shows that he discussed laicizing "F" with Fr Lucas on 15 April 1992. Subsequent file notes by the bishop in April, May and June 1992 contain details of complaints made against "F" by a young woman that he also discussed with Father Lucas. When I spoke to Bishop Manning and Fr Lucas, neither one of them recollected this matter beyond what was in the notes and a subsequent letter dated 10 June 1992 from Fr Lucas to Bishop Manning. The young woman in question came from a family in Tamworth where her mother had been supportive of "F" at the time of his arrest in 1987. Fr Lucas interviewed her and obtained statements from her. The young woman recounted incidents of aberrant conduct on the part of "F" that ranged from intimate touching whilst she was in school in 1985 to use of sexual language and stalking her in Sydney during 1989 and 1990 whilst she was in a residential college at university. Nothing seems to have been made of this material and in the end, as Bishop Manning said to me, it "seems to have just fizzled out".
79. On 13 May 1992 Bishop Manning noted that Fr Lucas had spoken to Dr Blaszczyński" who says ["F"] is a problem". The file note continued:
- "• Brian is prepared as Bishops Committee to confront him as to his future, offering alternatives of counselling, or application for dispensation.

- I made it clear that I wish to be last court of appeal."

80. On 9 June 1992 Bishop Manning was telephoned by the vicar for clergy in Parramatta diocese. He told the bishop about "F" and the altar boy at the ordination, the response attributed to Bishop Heather and of sexual language used by "F" in instructing altar boys about the use of the thurible.
81. Next, Bishop Manning spoke to Dr Blaszczyński on 12 June 1992. The bishop was told that "F" apparently had refused permission for a written report, but had agreed that the psychologist give an oral summary of his condition. The bishop's file note records the following advice:

"He informed me that "F" says he is enjoying his work and his anger is reducing. At the same time Professor [Blaszczyński] queries "F"'s insight into the risk associated with his past behaviour as he tends to intellectualize his problem.

To paint a true picture of "F" which one cannot get from him, it would be necessary to question collaborative sources who know him closely. His insight into himself is limited, he is shallow, self-centred, blames the environment not himself for his problems. He has no insight into himself.

"F" will be an on-going risk, even when independent of his priestly status. His proclivity to offend is not reducing as is usual with age. He has revealed a minimum about himself and the area of sexual activity is practically untouched. Professor [Blaszczyński] sees in him a high risk of recidivism.

Professor advises me that there will be minimum gain in any future counselling. It won't break through "F"'s personality. In two words the prognosis is not good."

Termination at Merrylands - Withdrawal of Faculties

82. The source of the information passed on to Bishop Manning about the sexual language used by "F" in instructing altar boys was Dominic Arcamone, who had succeeded Fr Boyle as parish priest at Westmead. Fr Arcamone took that matter up with Bishop Heather on 2 June 1992. Bishop Heather noted that the father of a

child at Merrylands had approached Fr Arcamone and complained of what Bishop Heather later described as "lewd comments to an altar server". Fr Arcamone also mentioned incidents reported by Annette Kenny, the principal of the Catholic primary school at Merrylands.

83. Over the next few days Bishop Heather spoke to Ms Kenny and Fr Bray about the matters raised by Fr Arcamone. He was told of other rumours about "F". Bishop Heather decided to terminate "F"'s appointment at Merrylands. Based on what he knew of "F"'s background, he saw in this information "signs of danger" and thought "it was time for our diocese to unhook itself from those risks".
84. Bishop Heather met "F" on 29 June 1992 and informed him of his decision. Not wanting to leave "F" financially embarrassed, Bishop Heather agreed to his being paid salary and car allowance up until 15 August 1992, although it was understood that his last Sunday service at Merrylands would actually be on 5 July 1992. Bishop Heather also said that "F" could "do a wedding for good friends in September". Bishop Heather telephoned Bishop Manning and told him that he had terminated "F"'s appointment.
85. On 30 June 1992 Bishop Heather wrote to "F" confirming their conversation and informing him that he had spoken to Bishop Manning. That same day Bishop Manning telephoned "F" who told him for the first time that he was going overseas on vacation in July. Bishop Manning also asked Fr Peters to seek advice on the withdrawal of "F"'s faculties and informed Fr Lucas of developments. On 1 July 1992 Bishop Manning sent "F" a notarised letter, informing him that, until "F" met him on return from holidays, he was withdrawing his faculties and that he was not permitted to exercise any public ministry anywhere. "F", cheekily, faxed a

copy to Bishop Heather asserting that "the withdrawal of faculties seems totally uncalled for" and asking for help.

86. Bishop Heather did not respond to "F"'s plea. He accepted that there had always been unease about "F" amongst his consultants who had never been generally enthusiastic about "F". Bishop Heather allowed that he was disposed towards being compassionate towards clergy and always had a feeling for priests who have stumbled a little. However, the statement "F" made to the altar servers indicated to him a sick mind.
87. "F" went off on vacation overseas. Before he departed, Bishop Manning arranged to see him in Armidale on 1 September 1992.

Indefinite Suspension

88. Whilst "F" was overseas, Bishop Manning took up with Dr Blaszczyński the possibility of invalidating "F"'s ordination on psychological grounds. Dr Blaszczyński's advice was not encouraging on that question.
89. Fr Peters furnished Bishop Manning with canonical advice about the process of laicizing "F". Bishop Manning was convinced that "F" had no future in the church. Fr Peters was asked to contact Fr Lucas and arrange a meeting along the lines discussed in May that year. Arrangements were made for a preliminary meeting on 3 September 1992 in Sydney. Fr Peters drafted a letter dated 27 August 1992 for Bishop Manning to hand to "F" when they met. The letter stated that the "matters of the alleged incidents with the boys in Moree together with the widespread knowledge and scandal have never been satisfactorily resolved". It went on to say that "F" was being referred to Fr Lucas as a representative of the "special issues" resources group and Fr Peters would attend the meeting as a representative of the diocese. Importantly, the withdrawal of "F"'s faculties was renewed and the consequence spelled out, namely, that "you may not celebrate public ministry anywhere".

90. Bishop Manning presented that letter to "F" at their scheduled meeting on 1 September 1992. The bishop made a handwritten file note of what "F" said in response on a number of matters) four of which I set out verbatim:

- "4. He claimed complete innocence in the charge brought against him by Jurd who could have charged him on another count.
5. He referred to three other incidents which could have brought him "fourteen years apiece". I didn't question him about these.
6. Referred to two alliances with women which he claimed proved his complete heterosexuality.
7. Expressed fear at the possibility of laicization for then "Those protecting the Church" would charge him. I refrained from pursuing this, but I wondered afterwards if he had grounds for this fear."

91. Bishop Manning told me he had no actual recollection of that meeting, but that "F" was a belligerent character and that "F" was careful not to give specific information.

92. "F" met Fr Lucas, Fr Usher and Fr Peters at the cathedral presbytery in Sydney on the evening of 3 September 1992. The meeting lasted nearly three hours. At the end it was agreed to meet again within a few weeks. Apparently that further meeting was appointed for 24 September 1992 because Fr Peters reported that fact in a letter to Bishop Manning dated 11 September 1992. In his letter Fr Peters wrote:

"After opening remarks from Rev. Brian Lucas, "F" indicated that he wished to make certain admissions.

He admitted that there had been five boys around the age of ten and eleven that he had sexually interfered with in varying degrees in the years approximately 1982 to 1984 while he was the assistant priest at Moree.

He had placed his hand on the leg of one boy who had indicated that he did not want that to happen. "F" maintains he never attempted any advances again to that particular child.

It was a similar story with another boy. He made advances by touching the second child on the leg and the child indicated he did not want that to happen. "F" maintains he made no such further advances to that child.

A third child was the boy who eventually brought criminal charges against "F" in the civil courts. Although the magistrate did not send the matter to formal trial because of a lack of evidence, while denying most of the charges, "F" did admit that he fondled the boys genitals during a car trip from Moree to Narrabri.

The situations of boys four and five were the occasion of more serious admissions on the part of "F". He admitted that over a period of approximately twelve months he fondled the genitals of each of these boys and to quote *"sucked off their dicks"*. As far as "F" can remember this was done on about a monthly basis over a period of twelve months. It was done only when each boy was alone with him. The boys were never together when an offence took place.

After the allegations of this behaviour were made, "F" was transferred to another parish. He alleges he then became sexually involved with a woman and that this continued for a period of some months. This was in the period of twelve months after being transferred from Moree.

In 1988, towards the end of his university course at Armidale, while he was on leave awaiting the outcome of civil proceedings against him, he alleges that he became sexually involved with a young lady at the University of New England. This was a short affair."

(The references to "civil courts" and "civil proceedings" are used, no doubt, to distinguish them from canonical.)

93. After next recording matters "pointed out" to "F" by the two priests from the resources group, Fr Peters noted:

"Various ways of proceeding were presented. These included: -

That "F" return to the lay state seeking a laicisation from the Holy See with the support of his Diocesan Bishop.

That "F" place himself into a programme of therapy arranged and monitored by the Bishops' Special Issues Resource Committee. Even with this, no guarantee could be given of a future appointment."

94. When I spoke to Bishop Manning he told me that he cannot recall seeing that letter. He said that he saw the letter for the first time recently when he learned that it had been produced on subpoena in one of the court cases involving "F". Neither Fr Lucas nor Fr Usher recalls any such admissions being made. Fr Usher made a note soon after the meeting relevantly recording that "'F' is unrepentant about his sexual misconduct with children in my opinion". (I shall return to the topic of what was discussed at this meeting when I deal with the "file note" referred to by Cardinal Pell in the ABC *Four Corners* program on 2 July 2012.)
95. The same three priests met "F" a second time in Sydney at the cathedral presbytery on 24 September 1992. This time Fr Lucas presented a document headed "Points for Discussion". I shall set it out in full:
- "1. For the reasons previously explained and taking into account all the circumstances there is no possibility of an appointment at this stage.
 2. This is subject to ongoing review.
 3. In the event of an application for laicisation the recommendation would be that the diocese support this and assist in its implementation.
 4. In the event that laicisation is resisted then some significant proof of the possibility of successful ministry must be provided.
 5. To assist in the presentation of the proof required in (4) the following is recommended:
 - 5.1 That there be a period of extended leave of say 5 years with an initial review in two years.
 - 5.2 That there be full-time secular employment and a secular living situation.
 - 5.3 That there be no ecclesial ministry (either clerical or lay).
 - 5.4 That there be an approved programme of therapy and in this respect ongoing therapy with Dr Alex Blasczynski is recommended.

- 5.5 That the person concerned pay for such therapy and further, as a gesture of goodwill, attempt to meet some of the previous costs expended in the legal process.
 - 5.6 That there be an approved person appointed as a monitor, to whom there must be regular reporting.
 - 5.7 That there be a positive report that unambiguously recommends a future appointment.
 - 6. In the event of some possible future appointment it will not be in the relevant diocese and will not be parochial and will be limited to a specialised ministry of minimal risk.
 - 7. The Special Issues Resource Group for the Province will supervise the implementation of the above if so directed by the bishop."
96. This meeting lasted two hours, after which Fr Lucas spoke to "F" in the absence of the others. When the meeting reconvened they were told "F" wanted to think things over for a month.
97. The next day, 25 September 1992, Fr Lucas sent a copy of this document to Bishop Manning. In his covering letter, Fr Lucas reported that "F" was "not adverse" to the proposal but that "at this stage" was not inclined to implement point 3. Fr Lucas also said that he and "F" had agreed to a further meeting on 2 October 1992 to discuss future options.
98. "F" did not keep his appointment with Fr Lucas. Accordingly, "F" was required to wait upon Bishop Manning on 29 October 1992. (In the meantime, Fr Peters also prepared for Bishop Manning a report dated 26 October 1992 on the second Sydney meeting.) At their meeting Bishop Manning and "F" discussed Fr Lucas's proposal. The next day, 30 October 1992, Bishop Manning informed "F" that he was to meet again with the nominated group on 12 November 1992 at the cathedral presbytery in Sydney.
99. The meeting on 12 November 1992 also lasted about two hours. Fr Peters prepared a report on the meeting for Bishop Manning. The following excerpts are of particular relevance:

- "5. "F" asked what was the situation if he chose neither of the two options being offered. Brian Lucas advised that would place Bishop Manning in the situation where he would have to consider initiating canonical proceedings against "F". The difficulties this would bring to all parties were discussed. The possibility that the young men who had been offended against might have to be contacted in a canonical process was mentioned. "F" said quite definitely that he would want to avoid any canonical proceedings against him.
17. "F" indicated that other people had supported him in not seeing the same seriousness in the situation as the committee saw. John Usher asked if these people knew the full story. "F" said they did. John Usher stated that it was understood that only "F", Brian Lucas, John Usher, Wayne Peters and Bishop Manning knew the full extent of the story at this stage. "F" said that those people were indeed the only ones who knew the full story. The committee members were left uncertain as to how many people "F" has talked to, how much he has told them or what he has told them.
19. Emphasis was again given to the fact that "F" was to have a letter to Bishop Manning by 26th November 1992 advising of his acceptance of the five year plan with appropriate proposals; or alternatively seeking a process for laicisation. It was clear to all that the deadline for this letter was 26th November."
100. On 24 November 1992 "F" wrote to Bishop Manning offering "his resignation from the Priesthood". He promised to send a formal letter and pleaded that he had received no income since the termination of his appointment in Merrylands. Bishop Manning acknowledged that letter. On the basis that he had received remuneration from the diocese of Parramatta up until the end of August 1992, the bishop enclosed a cheque for \$1,443 being the amount that "F" would have received for the months of September, October and November if he had had an appointment as an assistant priest in the diocese of Armidale. Bishop Manning also said that: "in order to offer you some assistance as you move to a new way of life, the diocese will give you a grant of \$500 monthly for the months of

December 1992, January and February 1993." On 9 December 1992 "F" wrote to Bishop Manning reneging on his offer to resign.

101. "F" and the bishop met on 22 December 1992. Bishop Manning then sent "F" a letter dated 28 December 1992 outlining the terms and conditions of a leave of absence from the priesthood for five years and requiring that "F" agree to those terms and conditions by signing his acceptance.
102. On 11 May 1993 Bishop Manning met "F" who handed the bishop a letter indicating he was moving to leave the priesthood and asking for financial assistance. The bishop's file note records that he pointed out to "F" that he had received no acknowledgment of his own letter to "F" of 28 December 1992, that "F" then promised an answer by the end of May, and that accordingly he handed "F"'s letter back to him "for more reflection". On 29 May 1993 "F" wrote to Bishop Manning requesting permission to celebrate the funeral of a woman who had been "raised in Armidale with my mother". The next day the bishop wrote back, refusing "F" permission to participate in the funeral and reminding him of the response expected by the end of the month. No acknowledgment was ever forthcoming.

Jurd Litigation

103. Bishop Manning remained conscious of the ongoing resentment about "F". Fr Flood, who had taken over from Mgr Ryan as parish priest at Moree, wrote to Bishop Manning on 30 August 1993 about the anger of parishioners concerning "F"'s sexual abuse of boys. Soon after stories about sexual molestation of boys by clergy started to appear in the local newspapers in Tamworth and Armidale. One story mentioned a number of boys in Moree whose parents "were reluctant to notify police because they did not want to embarrass their children or the church". Bishop Manning wrote to the acting general manager of CCI, drawing attention to this coverage and the possibility of some claim in the future.
104. On 28 December 1993 Broken Rites issued a press release demanding an investigation by the NSW Independent Commission Against Corruption of the

magistrate who heard "F"'s committal proceedings. In turn, Bishop Manning issued a press release in the following terms:

"I have read the press release issued by Ms Chris Wilding, convenor of Broken Rights, Australia and consider it a most serious allegation to suggest that a magistrate is corrupt.

I was not the bishop of this diocese at the time so am not in a position to say how the trial was conducted; nor to comment on the propriety of the magistrate.

That I leave to the proper judicial authorities.

I do know that the alleged offender was not committed for trial; that a request was made to the Director of Public Prosecutions to appeal the magistrate's decision & I understand that no such appeal was made.

The priest involved in the case is not working as a priest and I understand he is pursuing private studies at the University of New England.

The Australian Bishops have well established procedures for dealing with allegations against clergy and are firmly committed to ensuring such allegations are dealt with decisively and in a way consistent with the due process of law."

105. On 2 May 1994 Bishop Manning completed a report requested by CCI "on all matters which may give rise to civil claims for criminal sexual misconduct". In the light of the Broken Rites campaign Bishop Manning identified "F" as an "alleged" offender, Damien Jurd as the "alleged victim" and the date of the "alleged" incident as 1984. The bishop commented:

"I have completed this form "assuming" that if the original charge is true there may be "other" cases attributed to this priest. So far none have surfaced although rumours persist."

106. Bishop Manning had to wait a little over a year to be proved right. On 30 June 1995 solicitors wrote on behalf of Damien Jurd about a claim to be made against "'F", the bishop of Armidale, the diocese of Armidale and other organs of the Roman Catholic Church arising from the sexual abuse perpetrated ... by "F" in the 1980s".

107. The foreshadowed action was commenced on 6 March 1996. The defendants were "F", Bishop HJ Kennedy, the trustees for the diocese of Armidale, Cardinal Clancy, the trustees of the Archdiocese of Sydney, Kelvin Canavan of the Catholic Education Office and Mgr Ryan. The defendants other than "F" were indemnified by the Armidale diocese, which was itself indemnified by CCI under a public liability policy. Thereafter the carriage of the proceedings on behalf of all those defendants rested with the CCI and the solicitors it retained. The proceedings were eventually settled in January 1999 by a deed of release between the plaintiff, Mr Jurd, and the defendants other than "F" under which an agreed sum was to be paid, without admission of liability, to Mr Jurd and a notice of discontinuance was to be filed by Mr Jurd.
108. CCI has provided me with a copy of its file. The file contains much information that is not held in the records of the Armidale diocese, including the material reproduced in paragraphs 10 and 11 above. These are the only accounts given by the bishop and the parish priest of the circumstances surrounding "F"'s removal from Moree that I have seen. However, the most interesting material in that file is what the O'Halloran law firm promptly produced on 10 May 1996 to the insurance investigators when asked for it on 7 May 1996, namely, the transcript and several exhibits from the "F" committal proceedings. (Bishop Manning had tried to get hold of this information without any success back in July 1991.)
109. The transcript shows that "F" faced committal on five charges of indecent assault and six charges of sexual intercourse without consent. The alleged offences all occurred on the Anzac Day long weekend in 1983 when "F" took Damien Jurd (who had just turned 11 years of age) from Moree to Narrabri in order to assist as an altar server at a Sunday evening service. The acts of sodomy were alleged to have taken place in the presbytery at Narrabri where "F" and the boy stayed overnight.
110. I need not canvass the evidence adduced by the prosecution in any detail. However, it appears that the police arrested "F" on 12 August 1987 without ascertaining from him a version of events and that after the arrest "F" declined, on Mr O'Halloran's advice, to answer any questions beyond giving his personal particulars. Damien Jurd was cross-examined, and a variety of factual propositions were put to him. He agreed with

some and not with others. As to events on the Monday, Damien disagreed, in particular, with the time that counsel for "F" suggested he was returned home. His mother was called and corroborated Damien's evidence on this point.

111. Committal proceedings involve a two-stage procedure. At the end of the prosecution case the magistrate was required to determine, first, whether that evidence was capable of satisfying a jury beyond reasonable doubt that "F" had committed the offences charged. The transcript shows that counsel for "F" accepted that the magistrate could reach an affirmative opinion on that question. That disposed of the first stage of the proceedings.
112. The second stage required the magistrate to give "F" the opportunity to give evidence himself or call any witnesses. The transcript shows that counsel for "F" declined to call any evidence. The magistrate then had to decide whether to commit or to discharge "F" having regard solely to the evidence before him. In order to discharge "F" the magistrate was required, by the terms of the statute then in force, to reach an affirmative opinion that a conviction was "not likely". The address of "F"'s counsel is not recorded in the transcript.
113. "F" was, of course, discharged. The magistrate's reasons for that decision are recorded in the transcript. The magistrate stated his view that "on the evidence as it stands" it was "unlikely that a jury would convict". Whilst the magistrate expressly allowed that his reasons were "somewhat garbled", it must be said that they are plainly unsatisfactory and provide no support for his stated conclusion. A reference to "F" being a Catholic priest without any convictions is alarming in the context of a finding that "Damien must come out second best" in "the weight to be given to [his] account". In circumstances where "F" had given no account of events en route from Moree and at Narrabri on the Sunday in question, reserved his defence and called no evidence, the reasons of the magistrate reflect a flawed approach to the exercise of his jurisdiction to discharge. The magistrate obviously had regard to considerations outside the evidence and to conjecture of what course "F" might pursue at trial if committed. (Whilst the magistrate was not permitted to speculate that "F" would adduce evidence of good character in his defence, he was

not to know that there was not, in fact, the remotest prospect that "F" would ever dare to put his character in issue.)

114. On the basis of the evidence adduced at the committal it is difficult to see how a decision was made not to continue the prosecution of "F" on an ex officio indictment. However, for my purposes, the real significance of the proceedings is that a good deal of the evidence cried out for investigation by the church authorities. After all, these allegations antedated by about a year the allegations that precipitated "F"'s removal from Moree. Damien was apparently "sacked" as an altar boy in May 1983. (Fr Gleeson's recollection of the Jurd family name as one that was mentioned after "F" departed Moree may perhaps be confused because Fr Gleeson was still in Moree in 1987.)

1997-2002

115. The Jurd litigation rolled along without much input from the diocesan authorities in Armidale beyond responding to inquiries from the insurance investigator.
116. Bishop Manning left Armidale to become Bishop of Parramatta in 1997, and Mgr Ryan assumed the administration of the diocese.
117. "F" continued to come under attention. A note in the diocesan records dated 11 August 1997 contains a report of "F" hearing confessions one weekend in May that year at a parish in the diocese of Broken Bay where a seminary classmate was parish priest.
118. In early 1998, Fr Peters received from another priest in Armidale a report of "F" sexually assaulting a 15 year old girl. The matter was handled in accordance with the *Towards Healing* protocols, notwithstanding that there was no allegation relevant to "F"'s priestly status. The criminal charges that resulted were apparently dismissed by a magistrate on 4 February 1999 after a two day hearing in Armidale.

119. Daniel Powell also re-appeared in "F"'s life in 1998. The circumstances appear from papers made available by Mr Powell's solicitor, Jonathan Davis, after I had interviewed Renee.
120. "F" and Mr Powell met several times in and around the Guildford/Merrylands area during 1998, and over that period "F" paid Mr Powell various sums of money amounting to \$22,000. "F" said he paid these sums because Mr Powell threatened that he would otherwise go to the police and accuse "F" of sexually assaulting him as a young boy. At the beginning of August 1998 Mr Powell allegedly demanded a further sum of \$18,000. "F" spoke to a friend in the police whom he knew from university. "F" then spoke to two different solicitors.
121. On 14 August 1998 Fr Peters was informed by John Davoren from the Church's provincial Professional Standards Committee that "F" had contacted him to say he was being blackmailed. "F" had asked Mr Davoren for emotional and psychological assistance to find a new way of life. Mr Davoren told "F" to have no more contact with the blackmailer and to contact the Armidale diocese about going to the Encompass program as a step towards leaving the priesthood. The next day "F" rang Fr Peters to inquire about funding for the Encompass program and dispensation from the priesthood. "F" also told Fr Peters, "as a matter of courtesy", that a young man he had known from the diocese of Parramatta had been blackmailing him and that a solicitor had advised him he had no choice but to take the matter to the police.
122. "F" then went to see the police, armed with a statement prepared with the assistance of his brother, who was a former police prosecutor. "F" arranged to meet Mr Powell on 3 September 1998 at a fast-food outlet in Bankstown. When they met "F" was wearing a listening and recording device fitted by police, and during their meeting Mr Powell was arrested. Mr Powell was charged with twelve counts of demanding money with menaces. That same day "F" telephoned Fr Peters and left a message saying that the blackmailer had been arrested, and continuing:

"He's likely to make all sorts of unusual allegations in return. I've been advised to let you know that, and if there was anything in

Armidale you think should be got rid of, this is the time to do it."

Nothing was removed from "F"'s file in the diocesan offices.

123. Granted bail, Mr Powell absconded. "F" seems to have then lost interest in the Encompass program.
124. In 1999 Luc Matthys was appointed Bishop of Armidale.
125. On 15 March 2000 the Diocesan Director of Catholic Schools in Armidale sent a circular to all school principals notifying them that "F" was not to enter, or be invited to, any school.
126. Two further complaints of sexual abuse by "F" during his time in Moree were received and dealt with in accordance with the *Towards Healing* protocols. One was a complaint received in June 2001 by Fr Lucas and John Davoren in Sydney from [Sally Helmutson]. The other was received in June 2002 by Cardinal Pell from David West, the son of Mrs West.

Prosecution of Merrylands Altar Boy

127. Daniel Powell was found by police and apprehended in September 2002. When informed of this fact, "F" apparently did not want the prosecution of Mr Powell to continue because on 21 January 2003 he made a statement to that effect to the police and sought to retract his complaints against Mr Powell.
128. On 20 March 2003 an order was made that "F" attend for cross-examination at Mr Powell's committal proceedings. That same month "F" called on Bishop Matthys to inform the bishop that he was to be a witness in a blackmail case at Parramatta. Evidently, "F"'s interest in the Encompass program had revived. Arrangements were made for "F" to spend the third week in July 2003 at the Encompass facility in Ashfield for assessment. During his stay "F" refused to let Fr Peters sit in as the diocesan representative on a round table session. The clinical director of Encompass reported to Bishop Matthys their assessment that "F" "continues to pose a serious risk to children". Their prognosis for an improvement in "F" after treatment was

"probably at best guarded and at worst poor". On 10 September 2003 "F" met Bishop Matthys and informed him that the extortion case had been fixed for 14 October 2003.

129. On 7 October 2003, at Merrylands Police Station, Mr Powell made a statement to police containing very serious allegations against "F". Mr Powell alleged that, when he was an altar boy, he was sexually assaulted by "F" on several occasions in the presbytery at Merrylands and at least once in the presbytery at Ruse. The acts involved "F" fondling his genitals, fellating him, masturbating him and digitally penetrating his anus. Police then interviewed "F" in Armidale on 11 October 2003.
130. "F" attended for cross-examination at Parramatta Local Court on 14 October 2003. When counsel for Mr Powell asked "F" about his client's allegations of sexual abuse, "F" objected to answering on the grounds of self-incrimination. The solicitor from the Office of the Director of Public Prosecutions told the presiding magistrate that the police had informed him that no charges were to be laid against "F" in relation to Mr Powell's allegations "at this time". Nonetheless, "F" maintained the objection every time such a question was asked and the magistrate did not require him to give such evidence. Mr Powell was committed for trial on all charges.
131. After committal a new solicitor, Jonathan Davis, took over Mr Powell's defence in April 2004. Mr Davis displayed energy and resourcefulness in his conduct of the case. He arranged for subpoenas for the production of documents to be served on the diocese of Parramatta and the Archdiocese of Sydney. The documents sought in the subpoena served on the Archdiocese were described as follows:

"Any and all documents, files, records, correspondence or other materials or references pertaining to or referring to the person "F" (a former priest).

Any and all documents, files, records, correspondence or other materials or references pertaining to the person Damien James Jurd (a previous claimant against "F" and the Church). Documents from Catholic Church Insurance relating to the claim of Jurd (ref: Paul Gamble).

Any and all documents, files, records, correspondence or other materials or references pertaining to the person Daniel William Powell, David West, [Paul Bone], [Mick Darke], Kevin Field, Barry Redman or Bill Redman."

132. Both dioceses sought legal advice from solicitors about the subpoenas which were returnable ahead of trial. Bishop Manning sent the Parramatta diocese's file on "F" to its solicitors and left the matter in the hands of his vicar-general, Fr Robert McGuckin. On 27 May 2004 Fr McGuckin telephoned Bishop Manning to report the advice received from the solicitors. He made a handwritten note of that fact and of the bishop's response. The note states:

"Told him there is no available claim for privilege over these docs. He said he does not want to claim privilege, even if possible, because "F" "is a real worry" and in the public interest if he is prosecuted as a result of this, that would be appropriate. He is not a man we wish to protect. "F" abused [a young girl] many years ago. He has always been just 1 step ahead of gaol."

133. Mr Davis also got hold of David West's letter to Cardinal Pell and of the Cardinal's reply. He sent those documents to the Office of the Director of Public Prosecutions as attachments to a notice of tendency evidence to be adduced at trial. Mr Davis made a powerful application to the DPP for the discontinuance of the prosecution of Mr Powell.
134. On 15 June 2004 Mr Powell's trial began in the District Court at Parramatta. On the second day of trial the transcript notes an exchange between counsel for Mr Powell and the trial judge in the absence of the jury. They discussed a document produced on subpoena "by Armidale". (I have not seen a subpoena that was served on the Armidale diocese in the criminal proceedings against Mr Powell.) "F"'s cross-examination commenced later that morning. "F" admitted "sneaking" Mr Powell into the presbytery when he was 12 years of age and giving him cigars and alcohol, allowing him to drive his car on "private" land at Rookwood Cemetery, and giving him firearms to play with. "F" even insisted that he regarded

the boy as a great "mate" at the time whom he "loved". (At this point "F" presumed to lecture the court by boring on with the usual paedophilic guff about the Greek words *agape* and *philia*.) However, "F" objected to answering questions about his alleged sexual assaults on Mr Powell when he was a boy on the ground of self-incrimination. The trial judge upheld the objections.

135. On the third day of trial, in the absence of the jury, counsel for Mr Powell identified the document produced "by Armidale" to which he had referred the day before as the letter dated 11 September 1992 from Fr Peters to Bishop Manning. Counsel for Mr Powell tendered that document, and the trial judge refused to admit it. However, the trial judge ruled that counsel could show the document to "F" and ask "F" whether "the reason why he hasn't been given his priestly rights back" was because he admitted to performing oral sex on boys, not because of a "falling out" with a bishop. The jury came back, and the transcript next records the following questions and answers:

"Q. Now "F", sorry, Mr "F" were you at a meeting on 3 September 1992?

A. I don't know.

Q. With yourself, Reverend Brian Lucas, Reverend Usher and Reverend Peters?

A. I attended a meeting in Sydney and - what date?

Q. 3 September 1992?

A. Towards the end of 1992, yes.

Q. And that I suggest to you that at that meeting you made certain admissions to those priests that you had had oral sex with young boys, what do you say about that?

A. Yes.

Q. And that's the reason why they won't let you carry out your duties as a priest isn't it?

A. That's part of it, yes.

Q. Not just because you had a falling out with the bishop?

A. It was subsequent to that, that--

Q. I imagine it would have been?

A. Yeah.

Q. That of course breaks your promise of chastity doesn't it?

A. Actually what you are talking about is the promise I took of celibacy, which is not getting married, but if you are saying it was wrong and sinful to engage in wrong practices the answer is yes, and I am deeply sorry for what had happened."

(The transcript does not, in fact, record that the letter was shown to the witness.)

136. Mr Powell's trial concluded on 18 June 2004. The jury returned verdicts of not guilty on all counts.

Exit from Priesthood

137. On 1 October 2004 Mr Powell commenced civil proceedings against "F" and the dioceses of Armidale and Parramatta. His proposed cause of action was based on "F"'s sexual assaults when he was a boy. As the cause of action was out of time, Mr Powell was obliged to seek an extension of the applicable limitation period. In his affidavit in support of that application, Mr Powell deposed that prior to his criminal trial he had been in contact with the Broken Rites group and had spoken to Damien Jurd's mother. In the course of the proceedings Mr Powell served on the defendants the affidavit of Mrs West referred to in paragraph 17 above and notice of intention to adduce evidence of the admissions by "F" disclosed in the letter dated 11 September 1992 from Fr Peters to Bishop Manning.
138. "F" and other defendants' legal representatives discussed settlement of the proceedings. As part of those negotiations "F" signed a document dated 11 February 2005 resigning as a priest. A settlement was then agreed with Mr Powell. On 25 February 2005 a District Court judge entered judgment by consent for Mr Powell on terms that, without admission of liability, the defendants would pay a sum of money to Mr Powell in proportions agreed between them. The judge ordered that the terms of the settlement not be disclosed.
139. By the time those orders were made, steps had already begun to terminate "F"'s clerical status under canon law. On 21 February 2005 "F" completed the petition

for his laicization. The Pope granted the petition on 18 November 2005, and Bishop Matthys notified "F" of the final decree on 13 December 2005.

Alleged Cover-up

140. "F"'s meetings with Fr Lucas and Fr Usher in September and November 1992 were singled out in my terms of reference. Fr Peters attended those three meetings and subsequently prepared a report on each of them for Bishop Manning. As I have mentioned above, Bishop Manning has no recollection of having seen the first of those reports. The key document to emerge from those meetings, so far as Bishop Manning was concerned, was that prepared by Fr Lucas for the second meeting containing the proposal to be discussed with "F".
141. Nonetheless, the first report by Fr Peters relating to the meeting on 3 September 1992 was utilised in the ABC's *Four Corners* television program on 2 July 2012 to allege that at that meeting "F" made admissions that should have been reported to the police. On 9 July 2012 a reporter on the ABC's *7.30 Report* television program referred to conflicting accounts of what happened at that meeting being given by Fr Lucas, Fr Usher and Fr Peters. I shall set out below how that came about.
142. On 31 May 2012 Mary Ann Jolley, a producer on the *Four Corners* program, sent an email to Fr Lucas requesting an interview about "the Catholic Church's handling of sexual abuse cases". She stated:

"We would very much like to talk with you about the broad issues- the complexities of dealing with both the abuse victims and the perpetrators, and also more specifically about the case of "F" who we believe you, Rev Usher and Rev Peters met with on 3 September 1992 to discuss complaints made against him. We would like to understand what happened at the meeting and what action was taken."

Fr Lucas contacted Mgr Usher, who told him that Cardinal Pell was to be interviewed for the program. Fr Lucas then replied to Ms Jolley that he would not be available for interview because "I am aware that you have approached others in the Church more senior than me".

143. Mgr Usher prepared a briefing paper for Cardinal Pell. A copy is attached in the appendix to this report. (It will be seen that the document is headed "File note" and is dated 6 June 2012.) I will reproduce here Mgr Usher's relevant comments:

"F" Case

There was an important case involving a priest from the Diocese of Armidale ("F"). He was arrested and appeared before the court. He was acquitted. The new Bishop of Armidale, then Bishop Kevin Manning, asked Frs Peters, Lucas and Usher to interview Fr "F" to assess whether he should be allowed to continue as an Armidale Priest, even though the court had acquitted him of charges. The three priests who interviewed "F", aware that he had been acquitted by the court, and aware that he could not be tried again in relation to the same matter, made an assessment, after interviewing him, that he was not a fit person to continue as an active priest. Although he made no admissions, he was judged to be a person who, on the balance of probabilities, could become too closely involved with children and young people. The interviewing priests advised Bishop Manning accordingly and "F" was stood down from active ministry."

Mgr Usher said that he spoke to both Fr Lucas and Fr Peters before he wrote that section and each of them confirmed his recollection that no admissions were made by "F" at that meeting.

144. On 14 June 2012 Ms Jolley sent Fr Lucas the following email:

"Thank you very much for your response to our request for an interview.

As you are no doubt aware, we have since interviewed Cardinal George Pell who was unable to clarify some points and he suggested others more intimately involved with the issues at hand – such as yourself-might better assist us.

Since you have stated you are not prepared to be interviewed for our program, we would very much appreciate it if you would respond to the following questions –

Why was "F" called to a meeting with you and others on 3 September 1992?

Were any admissions made during that meeting?

What action was taken as a result of those admissions?"

Fr Lucas replied on 18 June 2012:

"F" had been arrested and charged but the court dismissed the charges. There were subsequent rumours about his behaviour and his bishop had suspended him and wanted us to interview him to see if he should be allowed public ministry. We interviewed him and although he was not specific with respect to any admissions we formed a view that he should not be allowed public ministry. That advice was taken by his bishop and he was not given any ministry after that."

Mgr Usher saw that reply before it was sent. Although he did not advert to its more qualified tone, he agreed with it.

145. On 27 June 2012 Ms Jolley sent Fr Lucas the following email:

"Thank you for your responses to our earlier queries. Just a few further clarifications if you don't mind.

At the September 3, 1992 meeting did "F" say anything that you felt should be reported to the police?

Did you report anything he said to the police?"

The next day Fr Lucas replied: "No."

146. Late on the afternoon of Thursday, 28 June 2012 Ms Jolley initiated contact with Mgr Usher and Mgr Peters by sending each of them an identical email:

"I'm a producer with the ABC's Four Corners program and am currently working on a story about the Catholic Church and how it deals with allegations of sexual abuse. The story will be broadcast this coming Monday night.

We are aware of a meeting you attended in Sydney on September 3, 1992 at which you were involved in interviewing "F".

We have asked Cardinal George Pell about this meeting and he has told us no admissions were made by "F" during this meeting.

We understand via the Cardinal that this concurs with your recollection.

There are just a couple points we want to clarify with you directly:
During the September 3, 1992 meeting did "F" say anything that you felt should be reported to the police?
Did you report anything he said to the police?"

Mgr Usher replied around midday on 29 June 2012:

"I apologise for the delay in responding to your email. I have been absent from this office until this morning.

I was present with Frs Lucas and Peters at the meeting with "F" in 1992, that you referred to.

I have, on behalf of the Archdiocese of Sydney, had a policy of reporting any disclosures of criminal conduct to the New South Wales Police and, when required, to the Department of Community Services. This was a practice prior to the 1990's.

I can state that "F" made no personal disclosures of criminal behaviour during the meeting in September 1992. There was, therefore, nothing that could be reported to the NSW Police and hence no report was made by us."

Later that afternoon Mgr Peters replied "No" to both questions.

147. On the evening of Friday, 29 June 2012 Ms Jolley sent Mgr Peters the following email:

"Thank you for your response. We'd really appreciate one final clarification. We understand you wrote to your superior in Armidale referring to certain admissions made by "F" during that meeting on 3 September 1992. Can you confirm this?"

After speaking to Fr Lucas and Mgr Usher, Mgr Peters replied to Ms Jolley at 7.28pm:

"I received your latest email this evening.

In my report to Bishop Manning, I referred to admissions made by "F". "F" conceded that there had been instances of misconduct but deliberately would not give any details or say anything

that would incriminate him or amount to an admission in the legal sense. He persisted in denying the charges in the case which had gone to court. However, we concluded that he should be removed from ministry. Bishop Manning accepted that advice and "F" was never given another appointment in the Church."

148. I turn now to the *Four Corners* program.
149. At the outset, two excerpts that were broadcast from an interview with Cardinal Pell call for brief comment. In one excerpt, the cardinal said that the "file note" of the meeting on 3 September 1992 "does not show that ["F"] made any admission". It would be unfortunate if that statement gave the impression that Father Usher's briefing note was a contemporaneous record of the meeting in question. In the other excerpt, the cardinal said that he did not know of the admission concerning oral sex made by "F" in court during Mr Powell's trial. I have seen nothing to suggest that that testimony ever came to the attention of anyone connected with the Catholic Church before the program was broadcast. So far as I am aware, no notice was given in the civil proceedings initiated by Mr Powell of any intention to tender such an admission against "F" or either of the other two defendants.
150. The presenter of the *Four Corners* program referred to a "cover-up". It seems to be insinuated that such an attempt at concealment is evidenced by the letter dated 11 September 1992 from Father Peters to Bishop Manning. The program reporter claimed that *Four Corners* did not obtain a copy of that letter until after the interview with Cardinal Pell.
151. Neither Fr Lucas nor Mgr Usher had ever seen a copy of that letter until after the *Four Corners* program was broadcast. Indeed, they did not know that there existed any written report until Fr Peters telephoned them about the email he received from Ms Jolley that is reproduced at paragraph 147 above. All three priests have avoided discussing amongst themselves the meeting of 3 September 1992 since I was asked to undertake this inquiry. Fr Lucas and Mgr Usher had not even seen the two subsequent reports from Fr Peters until I interviewed each of them. Now that they have seen the first report, neither of them recollects any admissions such as those I have reproduced at paragraph 92 above.

152. After 20 years it is hardly surprising that all three men have different recollections of what was said by "F". Each of them brought different background knowledge to that first meeting. Fr Lucas and Fr Usher knew something of the Jurd case in Narrabri, and each suspected that there was probably some substance to the allegations made against "F". Fr Usher knew particularly of the report from Gary Boyle, and he had also seen "F" two years beforehand and provided his very prescient advice.
153. Fr Lucas recalls "F" as very difficult and not at all cooperative during the first meeting. He described "F" as a strange man with a sort of arrogance. Fr Lucas described his task as being to "read the Riot Act" to "F" and to convince him he had no future in the Church. The canonical processes for removal were difficult. So he worked on a model of suspension. The aim was to get "F" into secular employment and hope that he would like it. Fr Lucas thinks it unlikely that, if "F" had made the kind of admissions recorded in Fr Peters's report, he would have adopted the tone reflected in the proposal he developed for discussion at the second meeting. He thinks that he would have been more aggressive. Fr Lucas recalls "F" as always being very guarded in conversation.
154. Mgr Usher seemed to have a more vivid recollection of the meeting than Fr Lucas. Mgr Usher mentioned that his usual practice when assessing people like "F" was to ask about sexual fantasies. He recalled "F" speaking in some detail about sexual fantasies and going on about them. "F" spoke about homosexual sex, heterosexual sex and sex with children as part of his fantasies. Mgr Usher recalls "F" appearing to be aroused by recounting these fantasies. Mgr Usher thought "F" was seeking to provoke them and get a reaction. The three priests interviewing him were confused by what he was saying, and they met separately to discuss what each of them thought he was saying. Mgr Usher recalls that "F" said nothing specific about particular people, events or places. Mgr Usher said that they were asking "F" about what he had been accused of, not what he had done. The Jurd allegations were discussed, but "F" continually denied any wrongdoing and stated that any persons who asserted to the contrary were wrong, stupid or deluded. (This account is consistent with brief notes that Fr Usher made around the time of the meeting.) Mgr Usher formed the view that "F" was "a sexually maladjusted creep". "F" was most unsuitable to be a priest as he was a narcissistic, self-centred

man who would take no notice of authority. When asked about the reference to "the full story" in the excerpt from the third report that I have reproduced at paragraph 99 above, Mgr Usher recalls saying something to "F" in the context of others supporting him along the lines: "Do they know what you have said to us about what you were accused of and what your fantasies were and all that?", and "F" responding: "Oh, not really." Finally, Mgr Usher makes a very valid point. Of all three priests he had, by far, the greatest experience in dealing with child protection authorities and had in the past reported sexual assault of children to the police. If "F" had made admissions that he thought were real admissions, he would have reported any abuse.

155. At the meeting on 3 September 1992 Fr Peters had the most detailed knowledge of "F" and rumours surrounding his conduct. Fr Lucas and Fr Usher knew nothing about the counselling in Moree. Fr Peters may very well have connected up the dots, linking the fantasies expressed by "F" with the information he had. Fr Usher (who had experience of some of the "wildest people") found "F"'s ramblings to be "strange talk that I have never heard from a priest". Curiously, Mgr Peters does not remember taking notes and, although his reports are expressed in a narrative style, the meetings were fairly long. The dates of the reports show too that they were composed some time after the meetings. Mgr Peters said that the material in his first report did not reflect something "F" had told him on an earlier occasion. He said that "F" had always denied doing anything wrong. It would have been very difficult for Mgr Peters to put out of his mind the knowledge he had picked up around Armidale, and I am left to conclude that he understood "F"'s fantasies in a way that was different to Fr Lucas and Fr Usher as a result of which he attributed a meaning to what "F" said that they did not. Mgr Peters told me that, had I asked what had happened in those meetings, he would not have remembered unaided by his reports, but that reading the reports brought it all back.
156. The very specific admissions contained in the report of 11 September 1992 cannot be reconciled with the replies given to Ms Jolley. Nor do they accord with what Fr Lucas and Mgr Usher told me that they recollect being discussed at the meeting in question on 3 September 1992. There is nothing sinister in that situation. Nor do I consider that the earlier document must necessarily be accepted as a more accurate record of the discussion. I have tried to explain how I think Fr Peters came to prepare a

fairly comprehensive report for his bishop which drew on information not available to Fr Lucas and Fr Usher.

157. Notwithstanding the honest differences in recollection, I do not disbelieve Fr Lucas and Mgr Usher. Accordingly, if "F" made no admissions that either of them considered could and should be reported to the police, then there was no "cover-up" back in 1992. They had, of course, never seen the report prepared by Fr Peters. The "admissions" in that report had also, albeit unknown to them, been aired in court as early as 2004. It would have been futile to attempt a "cover-up" of its contents.
158. Finally, I should mention that both television programs mix up events concerning Daniel Powell. The *Four Corners* reporter wrongly suggested that a report by a nun of an incident involving "F" and an altar boy at Merrylands precipitated the meeting on 3 September 1992. This error was compounded by the reporter on the *7.30 Report* who implied that "F"'s abuse of Daniel's was discussed at that meeting. Daniel never made any allegations against "F" until 2002.

Conclusions

159. The most glaring omission from the records of the Armidale diocese is any contemporaneous account of the reason for "F"'s removal from Moree. The account given years later by Mgr Ryan to the insurance investigator that I have reproduced at paragraph 11 above makes no sense. The account of Bishop HJ Kennedy given in December 1996, which refers only to "the allegations", is entirely unhelpful. It must be accepted that at least one parent, and probably others, went to Mgr Ryan with very serious allegations of sexual assault by "F" upon young altar boys. The decision to remove "F" forthwith is a sanction so severe and calculated to affect reputation that it can only have been taken for grave cause.
160. It is perhaps understandable that a parish priest might prefer to report such matters orally to his bishop. The decision to remove "F" must have been made by the bishop. Quite apart from a report of the allegations against "F", it would be

expected that the bishop would wish to be satisfied that the parish priest had dealt with the situation appropriately so far as the parishioners were concerned. There is not a jot about any of these matters in the records. This is quite unfathomable when one looks at the volume of material relating to "F". There are numerous letters and postcards from "F" to the bishop, all in the most fawning and ingratiating terms, to mark every birthday, anniversary and feast day imaginable. These bits and pieces have all been retained. There is correspondence from the bishop himself dealing with the minutiae of "F"'s claims for a car allowance. Yet there is not one word about a matter of real consequence which obviously continues to resonate in Moree to this day.

161. There is another very important deficiency in the records. There is no note whatsoever about the phone call from the psychologist, Gary Boyle (which Mr Boyle mentioned in his subsequent letter dated 30 July 1988). It seems very likely that Mr Boyle was never given any version of the circumstances surrounding "F"'s removal from the parish in Moree except by "F" himself. This is quite unsatisfactory. It is open to any patient in a therapeutic relationship with a psychologist to insist on confidentiality. However, where a patient such as "F" wants an opinion given to a third party concerned about his fitness for employment, it is incumbent upon the third party to ensure that the clinician has the appropriate information. (In any event, it is by no means certain that Mr Boyle expressed any opinion to Bishop HJ Kennedy in 1984. So far as appears from his subsequent letter, Mr Boyle may have done no more than confirm "F" was seeing him.)
162. The decision to redeploy "F" to Tamworth East was, at the very least, premature. It would seem that no inquiries had been instituted in Moree to ascertain what kind of damage "F" had wrought. It is difficult to think of a more important episcopal responsibility. To the extent that such a task might be delegated to the parish priest, it might be expected that that course of action would be the subject of an appropriate note in the diocesan records. Any opinion furnished by Mr Boyle would necessarily have rested on quite inadequate foundations of suitable information. For example, in the household situation of a nuclear family, other family members would normally be interviewed by the clinician.

163. It would appear to be fortuitous that Fr Hanna had the supervision of "F" at Tamworth East. He was astute to keep "F" away from children. "F" obviously resented this attention and, after the court case in Narrabri, complained to Mr Boyle about this "lack of trust".
164. That brings me to the charges against "F". Bishop HJ Kennedy's failure to look into these matters is utterly inexplicable. I accept that, whilst "F" was facing charges, it would not have been appropriate to expect him to give an account of himself provided that he was removed from all duties and kept away from children. Investigation of crime is, of course, the job of the police, but the good name of the Church and the protection of children in its care are ongoing responsibilities for a bishop. Appropriate inquiries did not have to abide the disposition of the criminal proceedings against "F". The allegations in the Damien Jurd matter related to events a year prior to the complaints that precipitated "F"'s departure from Moree. Direct inquiries probably needed to be made in respect of a different group of potential victims.
165. Once the decision was made not to continue "F"'s prosecution on an *ex officio* indictment, there was no excuse for not initiating appropriate inquiries. The acts of sodomy in question were alleged to have occurred in the presbytery at Narrabri. How such serious allegations could ever be raised cried out for investigation. Perhaps arrangements made for the overnight accommodation of visiting altar boys needed to be reviewed. Perhaps the very practice of young altar boys travelling unaccompanied with a priest from town to town needed to be reviewed. Even if the allegations against "F" were false, these matters required attention in order to understand how they could be made. In his cross-examination of Damien Jurd, counsel for "F" had suggested that there were others, including the parish priest, in the presbytery at the relevant time. Most importantly, there is the position of "F" himself. The immediate spectre of criminal charges having disappeared, he is no more entitled to maintain a so-called right to silence than would be a member of the armed forces or the police force. Like those organisations, the Church is entitled to have from its priests an account of how they have discharged their duties so that appropriate decisions can be made about their continued service and future deployment.

166. Bishop HJ Kennedy apparently did nothing so far as the records show. When "F" went back to see Mr Boyle in July 1988, he was apparently able to tell Mr Boyle that he was there because of the bishop's concern "about his level of aggressiveness and determination to have his own way". That would appear to be the case because there is nothing in Mr Boyle's report to indicate that he had any idea that "F"'s "placement at Tamworth" was disrupted by his arrest to face very serious charges. Perhaps that is why Mr Boyle appears to have been so sanguine about the effectiveness of his three-month period of counselling back in the middle of 1984.
167. When Bishop Heather spoke to Bishop HJ Kennedy and "F", he was told that "F" had seen Mr Boyle and he thinks that he may have spoken to Mr Boyle. (Of course, for what it is worth, Mr Boyle's report was not something Bishop Heather had seen.) Bishop Heather had no idea what information Mr Boyle had been given by "F". Bishop Heather had been told by Bishop HJ Kennedy that "F" had been acquitted of the charges in Narrabri. He was not told anything of the circumstances surrounding "F" being removed from Moree beforehand. It is likely too that the scuttlebutt and rumours abroad in the Parramatta diocese after "F" landed there arose from the court case in 1987. That was the background too to the warning that Bishop Heather gave to Fr Bray and Fr Gavranovic when "F" went to Merrylands. I am of the view that, had Bishop Heather been given a full and accurate picture of "F"'s background, he would never have agreed to take him on in the diocese of Parramatta.
168. In 1990 "F" saw Fr Usher, who provided the report with his very prescient advice and who subsequently identified Dr Alex Blaszczyński as a suitable expert for a second opinion about "F". Bishop HJ Kennedy sat on his hands and did nothing with this information in circumstances where he knew that "F" was exercising his ministry in another diocese. Bishop HJ Kennedy should have promptly alerted Bishop Heather to the substance of Fr Usher's advice. At the same time Bishop Kennedy should have directed "F" to see Dr Blaszczyński on the basis that the psychologist would then provide a report to the bishop. The lack of action is puzzling.

169. We shall never know what "F" said to Mgr Ryan when confronted in 1984 with the allegations of the altar boys' parents. It is highly unlikely that "F" would have made any admissions relating to boys from families other than those who had complained directly to Mgr Ryan. It is possible that Mgr Ryan may have learned the names of other boys from his own inquiries. The "silencing of the witnesses" by Mgr Ryan seems to have been accepted as a fact, even by Bishop Manning when he took over. It must be regarded as unfortunate if, as appears to be the case, that topic was not raised with Mgr Ryan whilst he was still parish priest in Moree. Certainly, the impression seems to have been abroad in the local community at the time that some parishioners were dissuaded from going to the police. The motives for such advice may be well-intentioned, such as sparing further distress to the young victims, or misplaced, such as avoiding embarrassment for the Church. However that may be, if a child's parents have knowledge of any criminal conduct against their child by a priest, anyone in a position of authority in the Church should shy away from overbearing in any way the free will of the parents in deciding whether to take such information to the police.
170. Bishop Manning was never taken in by "F". He tried to get information about events that should already have existed in the diocesan records. Bishop Manning inherited a situation where Bishop Heather had permitted "F" to work in his diocese until November 1991. However, Bishop Manning straightaway forbade "F" from performing any public liturgical functions in the Armidale diocese.
171. Unfortunately these firm actions were confounded by "F"'s deception of Bishop Heather into letting him exercise his ministry beyond November 1991. Bishop Manning knew that "F" continued to live at Merrylands, but he did not understand that "F" had faculties in the Parramatta diocese beyond the term agreed to by his predecessor. No doubt, if he had realised the true situation, Bishop Manning would have passed on to Bishop Heather the adverse advice received from Dr Blaszczyński in mid-April 1992.
172. Alas, by this stage, it is likely that Daniel Powell was already in "F"'s thrall. The presbytery environment at Merrylands must have been something of a shambles. Fr Gavranovic had departed in the middle of the previous year. Fr Bray was not well.

"F" seems to have had the run of the place. It is extraordinary that he could "sneak" a 12-year old boy into a house shared with the parish priest where he gave the boy alcohol and cigars whilst they watched movies together. Kevin Lee, who was assistant priest at Merrylands in 1995, remarked on the unhygienic condition of the presbytery. Fr Bray was obviously not as watchful as Fr Gavranovic. Fr Bray appears to have paid little heed to any warning given by Bishop Heather because, as appears from letters written by other naive supporters, he evidently thought "F" hard done-by in being terminated by Bishop Heather for use of lewd language. Fr Bray, together with another priest in a nearby parish, often allowed "F" to stay long after he had ceased to have any pastoral responsibilities anywhere.

173. It is a mark of how insidious and successful "F" was in preying upon young Daniel Powell that even his mother, Renee, had no complaints when Fr Boyle very courageously came to see her. Even had Fr Boyle's concerns been passed along to Bishop Heather by the egregious Fr Cattell (who was himself subsequently convicted of sexually assaulting a boy), it would have been too late to save Daniel.
174. The history at Parramatta shows that there is no substitute for accurate information. Had Bishop Heather had the full picture, he would never have taken "F" on. Without it, no matter how conscientious other priests in the diocese may be, a dozy or indulgent parish priest was putty in the hands of "F".
175. "F"'s career as a Catholic priest effectively came to an end on 1 July 1992 when Bishop Manning withdrew his faculties. There was not the remotest prospect that "F" would ever again be appointed to a pastoral position. All the manoeuvres in the second half of 1992 were designed to get him out of the Church. So far as the management of "F" in operational terms was concerned, the decision had already been made. The "specialised ministry of minimal risk" mentioned in Fr Lucas's points for discussion was always an idle fancy. "F"'s career was over, and nothing that was said in discussions with the "special issues" resource group was going to revive it. Bishop Manning made that perfectly clear in his interview with me. His successor, Bishop Matthys, told "F" on 10 September 2003 that he would never be allowed to minister as a priest.

176. "F" received no support from diocesan funds after February 1993. The Church did pay the fee for his week-long admission to the Encompass program in 2003. That was, of course, part of Bishop Matthys's effort to get the laicization process underway. However, like his predecessor Bishop Manning, he was frustrated in that endeavour until "F" eventually faced up to reality at the courthouse door in the Powell civil litigation. Apart from the circular issued in 2000 banning "F" from schools, no decisions of a management nature were made by Church authorities. Statutory reporting obligations remain ongoing in respect of complaints about "F" as they came to attention, notwithstanding his ceasing to be a priest.

Towards Healing

177. I understand that the document setting out the principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia will come under review in the foreshadowed royal commission. For my purposes it is only necessary to remark that, had the procedures for reporting child abuse laid down in that document been in force in 1984 and observed in Moree at the time, "F" would have been stopped in his tracks. Mgr Usher's briefing paper usefully explains how the protocols work. They also include specific strategies designed to prevent the transfer of unsuitable priests from one diocese to another. If those procedures had been in place in 1989 and followed in "F"'s case, there is no chance that Bishop Heather would have agreed to take him on.

Postscript

178. I have no doubt that "F" was guilty of the most vile sexual abuse of Damien Jurd and Daniel Powell. Both of these young men committed suicide when they were 28 years old. I have interviewed their parents as part of my inquiry. They all exhibited a quiet dignity and strength of purpose about exposing "F"'s wrongdoing.
179. Daniel's mother, Renee, was of great assistance in having Mr Davis make available papers relevant to my inquiry. She is alienated from the Church, but her faith has not altered. Renee's main concern that she expressed to me is that, if "F" had been "stopped" in the Armidale diocese, her son would be alive. I cannot know whether that is correct, but I certainly understand why Renee would think that way.

180. Max and Claire Jurd came and saw me in Tamworth. Their son, Damien, had been "sacked" as an altar boy by "F" not long after the trip to Narrabri at the end of April 1983. They never learned of "F"'s abuse on that trip until 1987. However, Damien had become a troubled boy and difficult to control before "F" was removed from Moree. When "F" disappeared from town overnight, the Jurds heard the scuttlebutt about "F" having interfered with altar boys. Although Damien denied anything untoward, they suspected that he had been abused by "F". Mrs Jurd moved to Tamworth with Damien in order to put him in a different school environment. Mr Jurd stayed in Moree for work. Damien's conduct did not improve. At their wit's end, the Jurds made an appointment to see the bishop in Armidale. They wanted to see if he could get Damien a place at Boystown.
181. Mr Jurd took the day off work, drove to Tamworth, collected Mrs Jurd and went to Armidale on the appointed day. They went to the Bishop's House and were shown into an office. Mrs Jurd told Bishop HJ Kennedy that a priest had abused her son. Both Mr and Mrs Jurd said that the bishop screwed up his face and shook his head. The bishop did not ask them who the priest was. The Jurds asked whether the bishop could get Damien into Boystown. The bishop left the room and was "away for ages". Mrs Jurd said it could have been half an hour. When he returned, Bishop HJ Kennedy bluntly said: "No. There's nothing I can do for you." The bishop then went to leave the room. When Mrs Jurd remonstrated that her son had been sexually abused by a priest, the bishop "threw his head in the air and went" according to Mr Jurd.
182. There is no record of this meeting in the records of the Armidale diocese. In my view, Bishop HJ Kennedy's treatment of Mr and Mrs Jurd was a disgrace.

(A.P. Whitlam)

Appendix

1. Terms of Reference.
2. Note dated 6 June 2012 from Mgr Usher to Cardinal Pell.
3. List of Persons Interviewed.



**Independent Inquiry
on behalf of the
Catholic Diocese of Armidale
&
the Catholic Diocese of Parramatta**



Terms of Reference

The Bishop of Armidale and the Bishop of Parramatta have jointly commissioned an independent inquiry of the processes related to the management of F who has been the subject of media reports in relation to allegations of abuse of children. F was incardinated in the Diocese of Armidale and, for a period of time, was also engaged in ministry in the Diocese of Parramatta.

Taking into account the historical context within which the activity under consideration occurred, the inquiry shall examine:

1. The history of appointments, ministry and activities of F during the period of his priesthood in the Dioceses of Armidale and Parramatta
2. The nature and quality of the management of complaints received by alleged victims of F when they were received by the Diocese of Armidale or the Diocese of Parramatta including the response of Armidale and Parramatta to:
 - 2.1 the complaints received by alleged victims
 - 2.2 those who were responsible for supervising F's ministry
3. The nature and quality of the processes that facilitated F's transfer to the Diocese of Parramatta in 1989.
4. The sequence of events that led to F's termination from ministry.
5. Information related to the 1992 meeting(s) of the Catholic Bishops Special Issues Resource Committee held in respect of F's ministry
6. Whether the action taken by each of the Dioceses of Armidale and Parramatta in the management of F was appropriate.
7. Comment on any other matters deemed relevant.

CATHOLIC ARCHDIOCESE OF SYDNEY



File note

Date: 6 June 2012
Author: Mgr John Usher
Re: 4 Corners Interview with Cardinal Pell

Background to "Towards Healing"

In Australia, in the late 1980's, the Australian Catholic bishops became aware, as did the Leaders (Provincials) of Catholic Religious Institutes, that complaints of Child Sexual Assault perpetrated by some Priests, Brothers and Religious Sisters were beginning to be made.

It seems, at the time, that these complaints arose in the wake of legislative changes that were being made in New South Wales relating to the "mandatory reporting" of child abuse to the "NSW Child Protection Council". Complaints were also increasing because of media coverage of sexual abuse in overseas Dioceses of the Catholic church.

Hence, in the early 1990's the Catholic bishops and Religious Leaders sought extensive advice from social scientists, psychologists and other professionals (both local and overseas experts) on the issue of paedophilia.

Not unlike leaders in other child related institutions, the Bishops and Leaders, with the help of expert advisors, came to a more profound understanding about the psychosocial profile of people who commit offences against children and young people.

The particular learning related to matters such as:

- Perpetrators of child sexual assault were likely to be serial offenders and that therapeutic counselling of such people was no guarantee that they would not reoffend.
- Such offenders should not be trusted when they showed contrition or promised not to reoffend. Because of the psychological rationalisation of their behaviour, they were generally people who had convinced themselves that they "had done no harm".
- Paedophilia was not related to homosexual orientation.
- It was alarming for the Church Leaders to learn that religious personnel, who had made commitments to celibacy and chastity, would be perpetrators of child sexual assault. This highlighted for the Church Leaders the grave betrayal of trust that offenders commit - More so than other citizens who commit such offences.

- There was also an awareness that Church Leaders in the past had, because of a lack of understanding or because of a misplaced commitment to "forgiveness", had not dealt with perpetrators properly; nor had they properly understood the devastating effect of such abuse on victims.

In the past, not just in the Church but in other institutions involving children and young people, there were three significant problems:

- i. A lack of knowledge about the pathology of a perpetrator of child sexual assault.
- ii. An over-conscientious need to avoid scandal.
- iii. And, most importantly, a minimal understanding of the long-term psycho-social impact on the life of a victim.

An understanding of these issues in the late 1980's and early 1990's, in the Australian Catholic church, led to the development of the "Towards Healing" protocol which placed the special needs of victims as a first priority. The avoidance of scandal was much less important and the rationalisation of a perpetrator's actions was no longer to be accepted.

Further, it became essential to improve the psychological assessment of candidates for priestly and religious life and to "stand down" any priest or religious who had perpetrated an offence against children in the past.

Operations of the "Towards Healing" Protocol

The "Towards Healing" protocol works from a principle that victims generally are believed; bearing in mind the right of an alleged perpetrator to justice. Nevertheless, a disclosure of a child sexual abuse is rarely fabricated. On the balance of probabilities, when an allegation is made, an assault of some description did occur.

In the "towards Healing" protocol allegations are independently assessed by a "non-church" professional. Of course, such assessments are not necessary when the accused person is known to be an offender in the past.

The "towards Healing" protocol gives each Church Leader an opportunity to assist a victim in a way that is specifically helpful to them. Nothing can really "compensate" a victim for the abuse. Nevertheless, a response that is helpful and relevant to the victim's current situation may bring some closure for that person. This assistance generally takes the form of therapy/counselling as well as a monetary contribution that may be immediately helpful (e.g. help with rent or mortgage payments; travel, medical expenses, school fees etc.). If a victim would prefer to receive payment of a designated sum of money, rather than specific financial support, this too is provided.

Reporting to the Police

The "Towards Healing" protocol, as it is implemented in NSW, ensures that all complaints are reported to the NSW Police (i.e. the name of alleged offender is reported). If the victim is prepared to speak to the police, their contact details are also provided, but only with their permission.

Once an allegation is made, the alleged offender (i.e. priest, religious or lay person) is stood down from all duties pending the investigation/assessment. If the NSW Police are involved an internal investigation must not commence prior to the completion of the police enquiries.

Irrespective of the fact that an alleged perpetrator may be arrested or not arrested, convicted or acquitted, a church investigation must still proceed. A person who is not arrested by the police, or not convicted by a court, must still be assessed regarding his or her suitability as an active priest, religious or church worker.

Legal Costs

In cases where a diocesan priest is arrested, in the Archdiocese of Sydney for example, the Church does not contribute to the legal costs of priests - neither directly or by way of a loan.

Case Numbers

In relation to the total number of cases across Australia referred to Church authorities, such data is obtainable from the National Professional Standards Office of the Church. In the Archdiocese of Sydney, for example, there have been allegations against 23 priests. Fourteen of those priests are deceased and the nine remaining priests have all been removed from active ministry.

Contacting Victims

The Church has constantly sought more effective ways of getting victims to come forward. The Archdiocesan Website provides people with contact details and there is a toll-free number that persons can ring.

Suicide

In relation to suicides linked to child sexual assault by priests, it is very difficult to ascertain, with any accuracy, the exact numbers. There are two known cases of suicide which seem to be linked to sexual assault by priests in Sydney.

F Case

There was an important case involving a priest from the Diocese of Armidale (F.). He was arrested and appeared before the court. He was acquitted. The new Bishop of Armidale, then Bishop Kevin Manning, asked Frs

Peters, Lucas and Usher to interview F to assess whether he should be allowed to continue as an Armidale Priest, even though the court had acquitted him of charges. The three priests who interviewed F aware that he had been acquitted by the court, and aware that he could not be tried again in relation to the same matter, made an assessment, after interviewing him, that he was not a fit person to continue as an active priest. Although he made no admissions, he was judged to be a person who, on the balance of probabilities, could become too closely involved with children and young people. The interviewing priests advised Bishop Manning accordingly and F was stood down from active ministry.

Issues Involving Religious Orders

The Archdiocese of Sydney holds no formal data relating to offending priests, brothers or nuns, who are or were members of Religious Congregations. Nevertheless, all Dioceses (other than the Archdiocese of Melbourne which has its own protocol) and Religious Orders have agreed to abide by the Towards Healing Protocol.

Mgr John Usher

Chancellor

List of Persons Interviewed

5 September 2012 – Tamworth

Rev. Bernard Flood

Rev. Richard Gleeson

Max Jurd and Claire Jurd

Rev. Mgr Wayne Peters

18 September 2012 – Sydney

Rev. Brian Lucas

28 September 2012 – Sydney

Most Rev. Gerard Hanna

Rev. Mgr John Usher

2 October 2012 – Parramatta

Rev. Zvonimir Gavranovic

Rev. John Boyle

Most Rev. Kevin Manning

4 October 2012 – Sydney

Most Rev. Bede Heather

8 October 2012 – Parramatta

Most Rev. Robert McGuckin

9 October 2012 – Parramatta

Renée (Daniel Powell's mother)

Rev. Kevin Lee

Rev. Chris Dixon

Mr David Maguire